which, unhampered by formalism, went direct to the hearts of his associates. It is of this one phase of his character that I desire to speak.

There are triumphs of eloquence and triumphs of organization, but that which elected our friend a Member of this body was the triumph of a warm and genial heart, coupled with that strong common sense and insight into human nature which traveling salesmen possess perhaps more than all other men. These, too, were the qualities which made him one of the most watchful and useful Members of the House.

However much some may discount membership in this body, it is a distinction, and may I add, without egotism, that its attainment is strong presumptive evidence of ability, possbly latent, but no less certain. It is a distinction that many of the ablest lawyers throughout this land have thought it not improper to strive for. Disguise it as some may, the confidence of a majority of your home people in electing you to a position of such responsibility could find lack of appreciation only in an ungrateful heart.

The deceased came not from the ranks of the professional class, so overwhelmingly represented in Congress, but he came from the people, elevated from amongst them, with the glow of popular demands fresh upon his mind and with a sympathy of interest that the formalism of professional life would almost make impossible. In this day of action rather than words, even in the American Congress his usefulness may not be discounted by the most profound constitutional lawyer of this body. Legislation is as much the result of the hand touch of the committee as the hair splitting of the forum.

We recognize the general proposition that education gives its possessor an advantage over illiteracy, and professional education tends to emphasize that advantage. But he who, with a simple English education, in a body largely dominated by professional men can set at naught legal quibblings and fully maintain the rights of his constituents must possess those qualities of mind less lustrous, but no less valuable, in the attainment of results than polished oratory. Such were the qualities of mind and heart with which our friend was endowed. Genial always, he was aggressive, yet unobtrusive; quiet, yet ever alert and untiring in the discharge of his duty to his constituents; a strict party man in so far as that obligation bound in reason, yet tolerant and reasonable in his dealings with the opposition.

Hailing from widely divergent sections of the United States, representing interests that have little similarity, with an acquaintance of only a few years, there was no tie, save such as the Creator had implanted in that generous heart, to bring me within the number of those who sorrow for his "taking away." "In the world's broad field of battle" these influences linked to him, here and there, the fellowship and sympathy of his associates, and though in "crossing the bar" into the great unknown ocean his temporal life fades from our view, we follow him with those feelings which can not die.

The brevity and uncertainty of life is strikingly illustrated in the passing away of this young man who seemed to be in the springtime of his career. Little more than two years ago he was one of the party which bore the remains of the late Hon. George W. Croft to his native State (South Carolina), to place them amongst those who sleep. While the memory of this event is as of yesterday, the summons comes again; passing over those who have long heard the breakers on a not distant shore, it knocked at the heart of our young friend, and it was still. Perhaps it is best that we do not know when we stand near the shadow.

In the vigor of young manhood, unbroken by the weight of years, he laid down life in its flower. If the contention of the psychologist is true, that thought is not even suspended in passing from this to the higher life, may we not hope that beyond the dividing line this life, pruned of earthly hindrances and transplanted in a more congenial soil, may go on in the enlarged exercise of those virtues that characterized it here?

Mr. GOULDEN. Mr. Speaker, in the fourth volume of his War and Peace Tolstoy likens life to an immense living globe, the surface of which is covered with drops closely crowded together, constantly pushing and pressing against each other, some expanding, others fusing or coalescing. In the center of the globe is God, and ever and anon, as some of these drops are crushed out of existence, their substance sinks back into the depths, while others expand to enormous size before being undermined or annihilated. Although not calculated to create any false impressions or charm us by the ideality of its conception, yet it is a very striking picture of mankind.

Its truth is brought very forcibly to mind when we consider the life and services of Mr. GEORGE ROBERT PATTERSON, who has represented his district in three successive Congresses. A Pennsylvanian by birth, he was thoroughly American in education and training, a product of that school system which is so distinctive a mark of our civilization. If in these days it be a reproach to be rich, then he was free from taint, for the worldly goods he possessed were obtained by hard work, by a strict attention to duty, and by honesty and fair dealing. He was a typical American business man, and was a valiant soldier in the ranks of that army which has won such creditable victories for American prosperity.

That he was respected by his friends and neighbors is attested by their selection of him to represent them in party councils and the nation's legislative halls; and as it is safe to say that the most reliable testimony to any man's worth is that of the people who live closest to him, then he needs no greater eulogy than the record of his three successive elections to Congress, the last by the greatest majority ever given to a candidate for any office in the district.

As he was only 43 at his death, he had reached but the prime of life. He had arrived at the stage when his knowledge and experience would have been of the greatest good to his constituents and fellow-citizens. He had been long enough in Congress to have thoroughly mastered its traditions, its intricate machinery, and its possibilities, and was therefore in a fair way to become one of its leaders and a credit to his State and the nation.

He was constantly growing in power and influence, but he did not exercise it in the Machiavellian fashion, which is characteristic of much of our party politics, but used it in the simple, old-fashioned, American way which endeared so many of our elder statesmen to the hearts of their followers. He was indeed like a drop on Tolstoy's globe, expanding into noble proportions, becoming a beautiful sight to all beholders. But death came to undermine him, and in a twinkling he was crushed out to sink back into the bosom of his Maker.

It is always unwise to push an analogy too far, and we can not therefore pursue the fatalism of the great Russian to its bitter end; although it would be wrong to close our eyes to the fact that in the reality of life there are no gaps, and our places are soon filled. Perhaps this is the sternest lesson which the philosophy of history has to teach us. But, in reviewing the career of our late colleague, we find that his passing does leave an aching void; at one stroke a son, a husband, and a father has been cut down, and a stanch friend and ally has been taken from his coworkers and constituents. But as he will be enshrined in the hearts and memory of all who knew him, he will thus, in all truth, continue to fill his own place.

And to the members of his bereaved family, consolation should be contained in those words of Landor, "He whom God smiteth, hath God with him."

It was my privilege to join with his late associates in attending his funeral at his home in Ashland, Pa. The appropriate services, simple, but impressive in character, were typical of the life of the late GEORGE ROBERT PATTERSON. The immense throng of sad faces that had gathered, with the closed places of business, all bore testimony to the esteem and regard in which he was held.

The SPEAKER pro tempore. Pursuant to the resolution already adopted, the House stands adjourned until to-morrow, at 12 o'clock.

Accordingly (at 1 o'clock and 35 minutes p. m.) the House adjourned.

SENATE.

MONDAY, *April 23, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

LANDS IN NEW MEXICO.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the governor of New Mexico, together with inclosures relative to the condition which exists in that Territory concerning certain lands that have accrued to it under the grants made by the act of June 21, 1898, and inclosing a proposed amendment to section 10 of the act of June 21, 1898, which will meet and remedy the difficulties pointed out by the governor in his letter; which, with the accompanying papers, was referred to the Committee on Public Lands, and ordered to be printed.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Mary A. Brannan, widow of James A. Brannan, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Walter B. Dick *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Augustus Rodney Macdonough, administrator of Charles S. McDonough, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Edward J. Dorn *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Cumberland G. Herndon *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Aurore D. Kerlegan, administratrix of the estate of Lucien Meuillon, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. C. R. MCKENNEY, its enrolling clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

H. R. 11037. An act relating to the transportation of dutiable merchandise without appraisement;

H. R. 18198. An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1907, and for other purposes; and

H. J. Res. 141. Joint resolution for the further relief of sufferers from earthquake and conflagration on the Pacific coast.

The message also transmitted to the Senate the resolutions of the House commemorative of the life and public services of Hon. GEORGE R. PATTERSON, late a Representative from the State of Pennsylvania.

The message further transmitted to the Senate resolutions of the House commemorative of the life and public services of Hon. GEORGE A. CASTOR, late a Representative from the State of Pennsylvania.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented petitions of the National Coopers' Association of St. Louis, Mo.; of Local Union No. 111, Brotherhood of Painters, Decorators, and Paper Hangers of America, of Lynn, Mass., and of the Peerless Motor Car Company, of Cleveland, Ohio, praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also presented a petition of the American Free Art League, praying for the enactment of legislation to repeal the duty on works of art; which was referred to the Committee on Finance.

Mr. CULLOM presented a petition of Local Union No. 340, Musicians' Protective Union, of Freeport, Ill., praying for the enactment of legislation to prohibit Government musicians from competing with civilian musicians; which was referred to the Committee on Military Affairs.

He also presented a petition of the Domestic Art Club, of Benton, Ill., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of Clover Leaf Lodge, No. 469, Brotherhood of Railroad Trainmen, of Charleston, Ill., and a petition of Local Division No. 1, Order of Railway Conductors, of Chicago, Ill., praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

He also presented memorials of Local Division No. 308, of Chicago; of Local Division No. 228, of Joliet; of Local Division No. 416, of Peoria, and of Local Division No. 264, of Chicago, all of the Amalgamated Association of Street and Electric Railway Employees of America, in the State of Illinois, remonstrating against the repeal of the present Chinese-exclusion law; which were referred to the Committee on Immigration.

Mr. BURKETT presented the petition of Ross P. Curtice, of Nebraska, praying for the enactment of legislation to consolidate third and fourth class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. DRYDEN presented the memorial of Olive Branch Grange, No. 142, Patrons of Husbandry, of Matawan, N. J., remonstrating against the free distribution of seeds; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of R. D. Wood & Co., of Philadelphia, Pa., praying for the enactment of legislation providing a metric system of weights and measures; which was referred to the Select Committee on Standards, Weights, and Measures.

He also presented petitions of sundry citizens of Pompton, Pompton Lakes, Jersey City, Hopewell, and Raritan, and of Washington Camp, No. 62, Patriotic Order Sons of America, of Woodbury, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. ELKINS presented a petition of W. B. Ryder Lodge, No. 232, Brotherhood of Railroad Trainmen, of Hinton, W. Va., praying for the enactment of legislation providing for an effective system of labor insurance, and also for the passage of the so-called "anti-injunction bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of Local Division, Order of Railway Conductors of America, of Cedar Rapids, Iowa, praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented sundry papers to accompany the bill (S. 5430) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment; which were referred to the Committee on the Judiciary.

Mr. CLAPP presented a memorial of the Department of Minnesota, Grand Army of the Republic, of St. Paul, Minn., remonstrating against the enactment of legislation to exclude, on account of age, surviving ex-Union soldiers and sailors of the civil war from employment in the Executive Departments of the Government; which was referred to the Committee on Appropriations.

He also presented a petition of the Department of Minnesota, Grand Army of the Republic, of St. Paul, Minn., praying for the enactment of legislation granting a pension of $12 per month to the widows of ex-Union soldiers; which was referred to the Committee on Pensions.

Mr. BURROWS presented sundry papers in support of the bill (S. 5493) granting an increase of pension to Marcus Wood; which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (S. 5201) to acquire certain land in the District of Columbia as an addition to Rock Creek Park, reported it with amendments, and submitted a report thereon.

Mr. GALLINGER. I am also directed by the Committee on the District of Columbia, to whom was referred the bill (S. 5289) to acquire certain ground in Hall & Elvan's subdivision of Meridian Hill for a Government reservation, to submit an adverse report thereon. This bill was made a part of the bill which has just been reported, and I therefore move its indefinite postponement.

The motion was agreed to.

Mr. ALGER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 394) granting an increase of pension to Amanda Lucas; and

A bill (S. 4796) granting an increase of pension to Lorinda J. White.

Mr. ALGER, from the Committee on Pensions, to whom was referred the bill (S. 522) granting a pension to Emma Worrall, reported it with amendments, and submitted a report thereon.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3033) granting an increase of pension to Aaron F. Patten;

A bill (S. 4401) granting an increase of pension to George W. Tomlinson;

A bill (S. 5671) granting an increase of pension to Richard L. Delong;

A bill (S. 5579) granting an increase of pension to Henry T. Sisson;

A bill (S. 5704) granting an increase of pension to Ruth P. Pierce; and

A bill (S. 4177) granting an increase of pension to Harlan P. Cobb.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3040) granting a pension to Mary C. Wilsey;

A bill (S. 678) granting an increase of pension to Albert Butler;

A bill (S. 2467) granting an increase of pension to Martin Clark;

A bill (S. 5163) granting an increase of pension to John Marah;

A bill (S. 3483) granting an increase of pension to William L. Sheaff;

A bill (S. 4358) granting an increase of pension to Thomas McCormick;

A bill (S. 4005) granting an increase of pension to Michael Quill;

A bill (S. 5082) granting an increase of pension to David N. Winsell;

A bill (S. 4361) granting an increase of pension to John W. Daley;

A bill (S. 5523) granting an increase of pension to Thomas J. Pickett; and

A bill (S. 5349) granting an increase of pension to William H. H. Robinson.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 4460) granting an increase of pension to Ann J. Thompson;

A bill (S. 5247) granting an increase of pension to Jacob Wigel;

A bill (S. 4457) granting an increase of pension to L. A. Tyson;

A bill (S. 3299) granting an increase of pension to Spencer C. Stilwell; and

A bill (S. 4692) granting a pension to Adaline M. Thornton.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5780) granting a pension to Lorenzo E. Johnson;

A bill (S. 5562) granting an increase of pension to John Hull; and

A bill (H. R. 3456) granting an increase of pension to David B. Ott.

Mr. SCOTT, from the Committee on Pensions, to whom was referred the bill (S. 3271) granting an increase of pension to Margaret E. Brown, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 13881) granting an increase of pension to Amos Dyke, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5680) granting an increase of pension to Thomas J. Bowser, reported it with an amendment, and submitted a report thereon.

Mr. SMOOT, from the Committee on Pensions, to whom was referred the bill (S. 5754) granting a pension to Hannah McCarty, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5532) granting an increase of pension to Simon A. Snyder, reported it without amendment, and submitted a report thereon.

Mr. GEARIN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5735) granting an increase of pension to Andrew D. Danley;

A bill (H. R. 1953) granting an increase of pension to Susan S. Theall; and

A bill (H. R. 16972) granting a pension to Harriet L. Morrison.

Mr. GEARIN, from the Committee on Pensions, to whom was referred the bill (S. 4488) granting an increase of pension to J. F. Amis, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5736) granting an increase of pension to Mary Clark, reported it with an amendment, and submitted a report thereon.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 557) granting an increase of pension to Mariot Losure; and

A bill (S. 869) granting an increase of pension to Baltzar Mowan.

Mr. BURKETT, from the Committee on Pensions, to whom was referred the bill (S. 5668) granting an increase of pension to George P. Sealey, reported it with amendments, and submitted a report thereon.

Mr. HEMENWAY, from the Committee on Military Affairs, to whom was referred the bill (S. 5378) removing the charge of desertion from the name of William R. Garner, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 3164) to correct the military record of Patrick F. McDermott, reported it with amendments, and submitted a report thereon.

Mr. PILES, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5702) granting an increase of pension to Anna C. Bingham; and

A bill (S. 5522) granting an increase of pension to Charles E. Sischo.

Mr. PILES, from the Committee on Pensions, to whom was referred the bill (S. 1508) granting an increase of pension to James A. Murch, reported it with amendments, and submitted a report thereon.

Mr. KITTREDGE, from the Committee on the Judiciary, to whom was referred the bill (S. 3403) granting an increase of compensation to circuit and district judges of the United States, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. GALLINGER introduced a bill (S. 5802) to correct the military record of Mirick R. Burgess; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HEMENWAY introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5803) granting an increase of pension to William H. Meadows;

A bill (S. 5804) granting an increase of pension to Nathaniel Wilder;

A bill (S. 5805) granting an increase of pension to Bryant L. Wakelee; and

A bill (S. 5806) granting an increase of pension to Joseph D. Armstrong.

Mr. MORGAN introduced a bill (S. 5807) for the relief of Leroy P. Walker, sole heir at law of Eliza D. Walker and L. P. Walker, her husband; which was read twice by its title and referred to the Committee on Claims.

Mr. CULLOM introduced a bill (S. 5808) granting an increase of pension to Washington Brockman; which was read twice by its title and referred to the Committee on Pensions.

Mr. McCUMBER (by request) introduced a bill (S. 5809) granting an increase of pension to Hannah C. Church; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 5810) granting an increase of pension to Thomas McGowan; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALDRICH introduced a bill (S. 5811) to amend section 3646 of the Revised Statutes of the United States, as amended by act of February 16, 1885, as amended by act of March 23, 1906; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Finance.

Mr. CLAY introduced a bill (S. 5812) for the relief of F. V. Walker; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BURROWS introduced a bill (S. 5813) granting an increase of pension to Marshall T. Kennan; which was read twice

by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5814) for the relief of Rev. George W. C. Smith; and

A bill (S. 5815) for the relief of Myron Powers.

Mr. CLAPP introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5816) granting a pension to Nancy A. Underwood (with accompanying papers); and

A bill (S. 5817) granting an increase of pension to Milton Nelson.

Mr. ELKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5818) for the relief of Eloise A. Sickels (with an accompanying paper);

A bill (S. 5819) for the relief of the board of education of Harpers Ferry district, Jefferson County, W. Va. (with an accompanying paper); and

A bill (S. 5820) to reimburse the estate of Samuel Caldwell, deceased.

Mr. ELKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5821) granting an increase of pension to Oscar P. Myer (with accompanying papers);

A bill (S. 5822) granting an increase of pension to I. E. Miller; and

A bill (S. 5823) granting an increase of pension to Nelson Virgin.

Mr. ELKINS introduced a bill (S. 5824) to refund legacy taxes illegally collected; which was read twice by its title, and referred to the Committee on Finance.

Mr. DANIEL introduced a bill (S. 5825) to authorize the United States Government to participate in the Jamestown Tercentennial Exposition on the shores of Hampton Roads, in Norfolk County, Va., in the year 1907, and to appropriate money in aid thereof; which was read twice by its title, and referred to the Select Committee on Industrial Expositions.

Mr. ALGER introduced a bill (S. 5826) granting an increase of pension to Isaac C. Phillips; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PETTUS introduced a bill (S. 5827) for the relief of the estate of Mrs. Cassa Simpson, deceased; which was read twice by its title, and, with the papers on file in the Secretary's office, referred to the Committee on Claims.

SUSPENSION OF DUTY ON MATERIAL FOR CALIFORNIA BUILDINGS.

Mr. CULLOM. I introduce a joint resolution, and ask that it be read, printed, and referred to the Committee on Finance.

The joint resolution (S. R. 50) providing for the suspension for one year of the duty on structural steel for buildings for use in cities in California, was read the first time by its title and the second time at length, as follows:

Whereas in view of the fact there is a shortage in structural steel and other building material in this country to meet the needs of the people of San Francisco and other California cities destroyed or damaged by earthquake shocks on April 19 and conflagration that followed, and that everything should be done to facilitate the reconstruction of the stricken cities: Therefore, be it

Resolved, etc., That the duty on structural steel and other necessary material intended for use in buildings to be constructed in said cities be, and it is hereby, declared to be suspended for the period of one year.

The VICE-PRESIDENT. The joint resolution will be referred to the Committee on Finance.

AMENDMENT TO GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. ELKINS submitted an amendment proposing to appropriate $600 to pay J. F. Sellers, S. A. Maryman, and F. L. Thompson $200 each for extra services rendered to the Committee on Interstate Commerce of the Senate during the consideration of the hearings on the regulation of railway rates, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

REGULATION OF RAILROAD RATES.

Mr. GALLINGER submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

ALICE VIRGINIA HOLLIS.

Mr. ELKINS submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to Alice Virginia Hollis, widow of C. R. Hollis, late assistant engineer under the Superintendent of the Capitol, a sum equal to six months' salary at the rate he was receiving by law at the time of his demise, said sum to be considered as including funeral expenses and all other allowances.

SEYMOUR HOWELL.

Mr. BURROWS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the chief justice and the judges of the Court of Claims be, and are hereby, requested to return to the Senate the papers in the case of Seymour Howell.

RELIEF OF SUFFERERS IN CALIFORNIA.

The joint resolution (H. J. Res. 141) for the further relief of sufferers from earthquake and conflagration on the Pacific coast was read the first time by its title.

Mr. ALLISON. The Committee on Appropriations this morning considered the joint resolution, having a copy of it in advance of its being formally sent to the Senate. I ask that it may be immediately considered.

There being no objection, the joint resolution was read the second time at length, and considered as in Committee of the Whole.

Mr. ALLISON. On page 1, line 9, after the word "million" and before the word "dollars," I move to insert the words "five hundred thousand;" so as to read "the sum of one million five hundred thousand dollars."

The amendment was agreed to.

Mr. ALLISON. I also move to add at the end of the joint resolution a semicolon and the following words:

And for the purpose of defraying all extra cost to the War Department incurred in mileage of officers, transportation of troops, and all other expenditures which would not have been necessary but for the relief measures herein described and authorized.

The amendment was agreed to.

The VICE-PRESIDENT. The Chair would suggest to the Senator from Iowa that after the words "two million," in line 2, on the top of page 2, the words "five hundred thousand" should be inserted.

Mr. ALLISON. The words "five hundred thousand" should be added there.

The VICE-PRESIDENT. The additional amendment will be stated by the Secretary.

The SECRETARY. On page 2, line 2, after the words "two million" and before the word "dollars," insert "five hundred thousand."

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The joint resolution as passed reads as follows:

Resolved, etc., That for the further relief of sufferers from earthquake and conflagration on the Pacific coast, as provided in the joint resolution approved April 19, 1906, as amended by the joint resolution approved April 20, 1906, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $1,500,000, or so much thereof as may be necessary; and authority is hereby specifically given to the Secretary of War to use this sum and the former appropriation for this purpose, amounting in all to $2,500,000, not only to buy additional supplies which may be needed for the relief of the sufferers as directed in said resolutions of April 19 and April 20, but also for the purpose of replacing by purchase such subsistence, quartermaster's, and medical supplies which may have been furnished by the Secretary of War for such relief from the stores on hand for the use of the Army; and for the purpose of defraying all extra cost to the War Department incurred in mileage of officers, transportation of troops, and all other expenditures which would not have been necessary but for the relief measures herein described and authorized.

HOUSE BILLS REFERRED.

H. R. 11037. An act relating to the transportation of dutiable merchandise without appraisement was read twice by its title, and referred to the Committee on Finance.

H. R. 18198. An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1907, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

RELIEF OF SUFFERERS IN CALIFORNIA.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was

read, and, on motion of Mr. PERKINS, was referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

I submit herewith a letter of the Secretary of War, with accompanying documents, including a form of a resolution suggested for passage by the Congress.

This letter refers to the appalling catastrophe which has befallen San Francisco and neighboring cities, a catastrophe more appalling than any other of the kind that has befallen any portion of our country during its history. I am sure that there is need on my part of no more than a suggestion to the Congress in order that this resolution may be at once passed. But I urge that instead of appropriating a further sum of $1,000,000 as recommended by the Secretary of War, the appropriation be for a million and a half dollars. The supplies already delivered or en route for San Francisco approximate in value a million and a half dollars, which is more than we have had the authority in law as yet to purchase. I do not think it safe for us to reckon upon the need of spending less than a million in addition. Large sums are being raised by private subscription in this country, and very generous offers have been made to assist us by individuals of other countries, which requests, however, I have refused, as in my judgment there is no need of any assistance from outside our own borders—this refusal of course in no way lessening our deep appreciation of the kindly sympathy which has prompted such offers.

The detailed account of the action of the War Department is contained in the appendixes to the letter of the Secretary of War. At the moment our concern is purely with meeting the terrible emergency of the moment. Later I shall communicate with you as to the generous part which I am sure the National Government will take in meeting the more permanent needs of the situation, including of course rebuilding the great governmental structures which have been destroyed.

I hope that the action above requested can be taken to-day.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *April 21, 1906.*

COMMUTATION FOR GOOD CONDUCT OF PRISONERS.

Mr. LODGE. I ask unanimous consent to take from the Calendar the bill (H. R. 15910) to amend the act entitled "An act to regulate commutation for good conduct for United States prisoners," approved June 21, 1902. It will not take any time.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection the Senate, as in the Committee of the Whole, proceeded to its consideration. It proposes to amend section 3 of the act entitled "An act to regulate commutation for good conduct for United States prisoners," approved June 21, 1902, so as to read:

SEC. 3. That this act shall apply to all sentences imposed subsequent to July 21, 1902, and to the sentences imposed prior thereto the commutation upon which is less than that provided in this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LEASES IN THE YELLOWSTONE NATIONAL PARK.

The VICE-PRESIDENT. The Calendar under Rule VIII is in order.

The bill (S. 4433) to amend an act approved August 3, 1894, entitled "An act concerning leases in the Yellowstone National Park," was announced as first in order on the Calendar.

The VICE-PRESIDENT. The bill was heretofore passed, and the votes by which it was ordered to be engrossed and read the third time and passed were reconsidered. The Chair understands that the junior Senator from Idaho [Mr. HEYBURN] stated when the bill was last before the Senate that he would desire to propose an amendment to the bill. The junior Senator from Idaho is not in his seat.

Mr. KEAN. I ask that the bill may go over, retaining its place.

The VICE-PRESIDENT. At the request of the Senator from New Jersey, the bill will go over without prejudice.

APPALACHIAN AND WHITE MOUNTAINS FOREST RESERVES.

The bill (S. 4953) for the purpose of acquiring national forest reserves in the Appalachian Mountains and White Mountains, to be known as the Appalachian Forest Reserve and the White Mountain Reserve, respectively, was announced as next in order on the Calendar.

Mr. TELLER. Let the bill go over under Rule IX.

The VICE-PRESIDENT. The bill will go to the Calendar under Rule IX, at the request of the Senator from Colorado.

DAMS IN ROCK ISLAND COUNTY, ILL.

Mr. HOPKINS. I ask unanimous consent for the present consideration of House bill 14508.

Mr. HALE. The morning business has been concluded?

The VICE-PRESIDENT. The morning business is closed and the Senate is proceeding with the consideration of the Calendar under Rule VIII.

Mr. HALE. The Senate is now on the Calendar?

The VICE-PRESIDENT. The Senate is now on the Calendar. The Senator from Illinois asks unanimous consent for the present consideration of a bill, the title of which the Secretary will read.

The SECRETARY. A bill (H. R. 14508) permitting the building of dams across the north and south branches of Rock River, adjacent to Vandruffs Island and Carrs Island, and across the cut-off between said islands, in Rock Island County, Ill., in aid of navigation and for the development of water power.

Mr. HALE. I will not object to this bill, but after it is disposed of, I shall ask that the regular order be enforced and that we proceed with bills on the Calendar as we reach them.

The VICE-PRESIDENT. The Senator from Illinois asks unanimous consent for the present consideration of the bill indicated by him. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Commerce with an amendment, on page 4, line 21, at the end of section 1, after the words "Carrs Island," to insert a colon and the following additional proviso:

And provided further, That the Secretary of War is hereby authorized, if in his judgment the interests of the United States will not be injured thereby, to permit the dam across the south branch of Rock River to be located and built on land belonging to the United States, under and subject to such terms and conditions as he may consider just and reasonable.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

CORPS OF DENTAL SURGEONS IN THE ARMY.

Mr. PETTUS. I make a motion to take up for present consideration, temporarily laying aside the unfinished business during the morning hour, the bill (S. 2355) to reorganize the corps of dental surgeons attached to the Medical Department of the Army. The bill was once passed. It has been called up frequently.

The VICE-PRESIDENT. On February 5 last the bill was considered as in Committee of the Whole, read three times, and passed, and the votes on its third reading and passage were reconsidered. The question is on agreeing to the motion of the Senator from Alabama to proceed to the consideration of the bill.

The question being put, there were, on a division—ayes 18, noes none.

The VICE-PRESIDENT. The division discloses the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clay	Gallinger	Nelson
Alger	Culberson	Hale	Newlands
Allison	Cullom	Hansbrough	Overman
Bacon	Dick	Hemenway	Perkins
Blackburn	Dillingham	Hopkins	Pettus
Brandegee	Dolliver	Kean	Piles
Bulkeley	Dryden	Kittredge	Rayner
Burkett	Dubois	Knox	Smoot
Burnham	Elkins	Lodge	Sutherland
Burrows	Foraker	McCumber	Taliaferro
Carter	Foster	Mallory	Teller
Clapp	Frazier	Martin	Tillman
Clark, Mont.	Frye	Money	Wetmore
Clark, Wyo.	Fulton	Morgan	

The VICE-PRESIDENT. Fifty-five Senators have answered to their names. A quorum is present. The previous division disclosed the absence of a quorum. The question recurs on the motion of the Senator from Alabama to proceed to the consideration of the bill, on which a division has been called for.

Mr. PETTUS. Mr. President, may I be allowed to make some remarks on this question?

The VICE-PRESIDENT. The Chair understands that debate is not in order pending the motion, except by unanimous consent.

The motion was agreed to; there being on a division—ayes 39, noes 7; and the Senate resumed the consideration of the bill.

Mr. PETTUS. Mr. President, this is a bill which was passed by the Senate on February 5. The next day the Senator from Maine [Mr. HALE], so soon as the Senate was called to order, after prayers, asked unanimous consent for a reconsideration of the vote by which this bill and another bill had been passed, and it was done by unanimous consent. Since then various efforts have been made to have the bill taken up, but they have been always objected to by the Senator from Maine. It is a bill in which I have no personal interest in the world. It is a bill of the War Department. It simply confers official rank on the class of learned men who are now employed as dentists in the Army, and gives them very limited rank, the highest being that of major. Bills on this line have been approved by

every Surgeon-General for the last eight years, and this bill is approved by the present Surgeon-General.

Mr. President, this Senate has treated me so kindly since I have been here—every member of it—including the Senator from Maine—that I have been really astonished at the manner in which I have been treated in reference to this bill. Every possible means has been taken during my absence—which was a matter of absolute necessity—to delay consideration, and even when the last call was made and the bill came up regularly on the Calendar, the Senator from Maine, though asked by a member of the Committee on Military Affairs to allow the bill to retain its place on the Calendar, refused to do so.

I have been amazed at the treatment I have thus received from the Senator from Maine. He has always heretofore been courteous to me—I am glad to acknowledge that—but in this particular instance he understands his own rights with a great deal of accuracy. I fear, however, he does not always consider sufficiently the rights of other people.

The bill, as I say, proposes to give rank to dental surgeons of the Army. It has been previously discussed, and I now simply desire a vote upon it.

Mr. HALE. Mr. President, I shall have no controversy with the venerable and distinguished Senator from Alabama [Mr. PETTUS], for whom I have the highest respect and regard. He has made himself in his service here agreeable in every way to Senators, and there is nothing but the kindliest feeling toward him felt by this great body. I share fully in the fact that this is the case, and that it is this feeling in regard to him and his desire to have this bill, which he has so much at heart, passed, which will carry the bill through. I do not think that on great measures, important measures, involving new legislation the Senate ought commonly to pass bills out of regard to the members of the body who desire to have them passed; but I can see plainly enough that as to this bill, in which the Senator has taken so much interest, the feeling that he is a good legislator, that he is patriotic, and that he is thoroughly in earnest about the bill, will carry it through.

I have not done anything—I am sorry the Senator thinks that I have—to unduly prejudice the bill. I think I have been bright enough to see from the beginning that the bill would go through. I think the Senator from Alabama, if he will look at the RECORD the other day when the bill went to the Calendar under Rule IX at my suggestion, will see that a half dozen of us, when measures came up that would involve contest, asked that the different bills be put on the Calendar under Rule IX. I did the same as to this bill; but I never expected that would stop the bill. This morning I could have stopped it for the time being, but I had no desire to do so. The Senator, I think, will see, he being the person who feels the responsibility of the bill, that I do not want to hold him obliged to be constantly on the lookout to try to get his bill up. While I am not in any way hopeful of defeating the bill, I do not think it ought to pass. I shall not vote for it. I do not think it is needed. Others think differently about it. The Senator, as I said, will get his bill through.

I had a little experience in the early part of this session in trying to stop another bill referring to the medical branch of the Army, and I got no votes. I was good-natured about it and took my discipline and medicine, as I shall now. I ran up against not only the committee but against the whole medical profession in the United States.

Doctor Reed, chairman of the committee on legislation appointed by the American Medical Association, stated that copies of the pending bill had been sent into each of the 3,160 counties in the United States with instructions to the receiver to obtain expressions of opinion thereon from leading physicians, medical societies, and prominent citizens. Replies strongly favoring the measure were received from more than 2,300 counties.

The doctors in the different counties properly enough took an interest in the matter and wrote to their Representatives and Senators. I was beaten, and badly beaten. Since then—it is not the fault of the Senator from Alabama—on this matter the dentists have been getting in their work, and I have letters, as other Senators have, from members of the profession in my State, men whom I regard very highly, writing to me and imploring me to vote for the bill the Senator from Alabama has in charge. That I can not do, because it is an innovation. I have just received a dispatch from the Surgeon-General of the Navy, who says there is no dental corps in the army or navy either of Great Britain, France, or Germany. It is, as I said about the other bill, a movement to increase the Army. I do not think this a good time to increase the Army. I said so then, but that was unavailing, as I realize that all I could do now would be unavailing. Some day the country will see, the Senator will see, and the other House will see that this is not a good time to increase the military establishment of the United States by bills providing for military rank which does not exist in other nations. I do not think that time has come now.

I want to say to the Senator from Alabama that I regret very much his feeling that I have sought in any way to interfere with his bill. When I am opposed to a bill I try to make my attitude plain here and vote against it. But I never supposed that this bill could be stopped; I do not suppose so now, and I think in advance I may congratulate the Senator from Alabama that he has got the Senate at his back, and if I stood here and argued during the day, as I did on the other bill, I should not get many votes. So I am not inclined to take any more time or to stand any further in the way of the Senator from Alabama.

Mr. LODGE. Mr. President, I am not opposed to this bill; in fact, I have the honor to be a member of the committee which reported it; but I think it requires an amendment in section 4, to which I understand the Senator from Alabama [Mr. PETTUS] has no objection. It seems to me to be very essential. Section 4 provides for the organization of a board of three examiners to conduct the examinations prescribed. I move, in section 4, page 3, line 6, after the word "prescribed," to strike out down to and including the word "examiner," in line 10, and insert "one of whom shall be a surgeon in the Army, and two of whom."

Mr. PETTUS. I have no objection to that amendment, Mr. President.

The VICE-PRESIDENT. The amendment proposed by the Senator from Massachusetts will be stated.

The SECRETARY. In section 3, on page 4, line 6, after the word "prescribed," it is proposed to strike out "two of whom shall be civilians whose qualifications are certified by the executive council of the National Dental Association and whose proper compensation shall be determined by the Surgeon-General; and the third examiner," and insert "one of whom shall be a surgeon in the Army, and two of whom."

Mr. HALE. I ask that the Secretary state just how the text will read if amended as proposed.

The VICE-PRESIDENT. The Secretary will read the section as it will stand if the amendment shall be agreed to.

The Secretary read as follows:

SEC. 4. That the Surgeon-General of the Army is hereby authorized to organize a board of three examiners to conduct the professional examinations herein prescribed, one of whom shall be a surgeon in the Army, and two of whom shall be selected by the Surgeon-General from the contract dental surgeons eligible under the provisions of this act to appointment to the dental corps.

Mr. HALE. Mr. President, I think that is an improvement on the bill. It is a very fitting and proper amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12087) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. LA FOLLETTE. Mr. President, the opponents of the regulation of railway rates and services have skillfully conducted this debate almost from the beginning upon constitutional grounds. This has prevented the Senate from giving consideration to the provisions of the bill and the abuses which call for correction.

For many days the discussion has been confined to a consideration of the court procedure to test the orders of the Interstate Commerce Commission. The importance of this branch of the subject will depend entirely upon the character of the orders which the Commission is authorized to make. The importance of any order issued will depend upon the power conferred and the duties imposed by law upon the Commission. The authority of the Commission may be so limited that the procedure for the enforcement of its orders will be relatively of little public importance.

The scope of the bill will determine the importance of all orders and all court review. For these reasons, at the beginning of what I shall say to-day, I would bring the discussion back to the broadest consideration of the subject with which this bill proposes to deal.

THE RELATION OF GOVERNMENT TO COMMERCE AND TRANSPORTATION.

The commerce of a country is a measure of its material power. It is the product of all the labor and capital of the country—on the farms, in the mines, and factories, and shops, and every field of material production.

The labor and capital of a country employed in production upon a basis attaining to the upbuilding of any community is everywhere absolutely dependent on transportation.

The founders of this Government understood that commerce is vital to organized society; that the development of the country depends upon the ready exchange of commodities between its different communities and sections. And so they ordained that commerce should be free between the States.

The founders of the Government and those who followed them understood that transportation is properly a function of government, and so they built highways, and turnpikes, and dug canals, and improved rivers and harbors, and finally built State railroads and aided in the building of interstate railroads. These highways by land and water were paid for wholly or in part out of the public treasury and the public domain.

The vital interest of organized society in commerce and the public nature of transportation imposes upon government the duty to maintain a control over transportation as a public service. Hence upon the broadest ground of public policy, wholly apart from any power to control, dependent upon charter grants, government must exercise, as a sovereign right, absolute authority over all persons and all property engaged in transportation.

The public character of the transportation service and the inherent right in sovereignty to exercise control over it, imposes upon the Government the obligation to require the common carrier to render the service upon reasonable terms and upon equal terms. For the Government to fail in this duty, for it to turn over to railroad corporations the uncontrolled right to dictate the terms of service and its character, is to abandon a function of government and place the common carrier in the control of the commerce of the country. To permit the railroads to control the commerce of the country is, in the final analysis, to permit the railroads to control the country.

I maintain, then, that the authority of government to control transportation, both as to the character of the service and the rate of the service, is inherent as a right of sovereignty and that the obligation rests upon government to exercise this power.

I shall undertake now to show that the adjudicated cases fully sustain this contention.

OBVIOUSLY UNSOUND CONSTITUTIONAL ARGUMENTS.

The history of the effort of the States and of the United States to regulate commerce, like other questions of great moment when there is conflict of views, is associated with the struggle over the constitutionality of each advance step that has been taken.

In the framing of a great piece of legislation it is impossible to overestimate the importance of all sincere effort to insure its constitutionality and to make it conform to the decisions of the Supreme Court. But there is a distinction in such legal discussion that should be kept clearly in mind. There is always the effort of the friends of a measure to insure its standing the test of the courts, and there is sometimes a determined effort of opponents to defeat it by attacking its constitutionality.

The measure before us has been described as "drastic" and "revolutionary;" as "contrary to the spirit of our institutions;" as "raising some of the most important questions with which we have had to deal since the civil war." It has been suggested that it owes its origin to "public clamor," and that it never commanded any serious attention until the President mentioned it in his message. Yet it is quite significant that the fight against the bill has been over constitutional questions. No Senator has taken the floor of the Senate in open opposition to the regulation of railroad transportation.

In the discussion of constitutional questions well-wrought-out theories have been substituted for the settled conclusions of law, as declared in the great body of decisions rendered on these questions since the adoption of the Constitution. Arguments have been made in opposition to this legislation that have been rejected again and again by the Supreme Court, and declared *not* to be the law in a long line of undisturbed decisions.

It has been contended that rate making was not in the mind of the framers of the Constitution, and therefore the Constitution can have no application to it, in direct contradiction of the decision in the Dartmouth College case, where it was held, and has never been successfully controverted since, that—

> The case being within the words of the law must be within its operation likewise.

By the new standard now sought to be set up, the fourteenth amendment would apply only to negroes, since they were the only persons in mind when the amendment was framed. Likewise, the fifth amendment would not apply to corporations, since only natural persons were meant, as frequently asserted by the courts. The stress placed upon the argument that common carriers could not charge unreasonable rates at common law would, if carried to its logical conclusion, prove that all the progressive legislation, State and Federal, for the control of transportation was entirely unnecessary and could as well be wiped off the statute books.

The argument on the clause, "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another," assumes, in direct opposition to repeated decisions, that the Commission must adopt a rate of so much per ton per mile as a reasonable rate.

Moreover, the discussion of this provision of the Constitution presumes that the railroads are conducting their business in direct violation of the intent and spirit of this clause of the Constitution. The moral obligation of the Government to exercise its power to prevent such violation is entirely ignored.

Taking the construction of the Constitution contended for by those who make this argument, is there not, then, an obligation on the part of the Federal Government, under any rational interpretation of the true meaning and spirit of this delegation of power, not only to give no preference, but to see that no preference is given? The States surrender all their commerce and all their power of regulation over it to the General Government, subject to the stipulation that in the exercise of that power no preference should be given to any power. Ought not the Government to protect the commerce of the States which have lost the right to protect it themselves? Ought not the Government to see to it that the transportation companies, over which the States have no control, which the Government alone can regulate, shall not do the very thing which the States expressly stipulated should not be done by the Government?

If the Federal Government permits a third party, subject to control by no one but the Federal Government, to do the very thing which it was expressly forbidden to do, is it not, in fact, doing the forbidden thing itself? Is it not, in effect, a violation of the spirit of this very provision of the Constitution for the Federal Government to allow the railway companies to give preference to the ports of one State over another by parceling out its commerce to suit themselves?

The contention that the power to regulate interstate commerce is identical with the power to regulate foreign commerce; that most of our foreign commerce is carried in foreign ships; that we can not regulate foreign ships; therefore we can not regulate nor prescribe the rates of railroads doing business in the United States, these and many other like arguments heard in this debate demonstrate the spirit of much of the constitutional discussion and opposition to the control of railway rates. Evidently the concluding paragraph of Mr. Justice Marshall's great opinion in Gibbon *v.* Ogden is as significant to-day as when delivered years ago:

> Powerful and ingenious minds * * * may, by a course of well-digested and metaphysical reasoning * * * explain away the Constitution of our country and leave it a magnificent structure, indeed, to look at, but totally unfit for use. This may so entangle and perplex the understanding as to obscure principles which were before thought quite plain, and induce doubts where, if the mind were to pursue its own course, none would be perceived.

POWER OF UNITED STATES OVER INTERSTATE COMMERCE SAME AS POWER OF STATES OVER STATE COMMERCE.

In the long conflict between the States and the corporations the railroads have resisted, step by step, the inevitable conclusion of law that *the State can fix the rates* of transportation.

What the railroad corporations most dread in this contest to-day is that Congress shall assert the same right for the National Government *to fix the rate for interstate commerce* that the States exercise over State traffic. If it is admitted that Congress has the same power over interstate commerce that the States have over State commerce, there is no ground for further litigation. Such an admission would sweep away all opportunity for long legal controversy. It would settle the issue.

The Senator from Ohio [Mr. FORAKER] says:

> The assumption that Congress has the power to fix rates as a part of the power to regulate commerce is largely due to the fact, no doubt, that the *States undeniably have this power.*

It follows that his contention that Congress has not the power to fix rates fails absolutely if the power of the United States Government over interstate commerce is the same as the power of State governments over State commerce.

The Senator from Pennsylvania [Mr. KNOX] speaks of "difference in radical relation of the States and of the nation to the subject of rate making."

It becomes very important to definitely determine, if possible, whether the power of the United States over interstate commerce is the same as the power of a State over State commerce.

In the case of Gibbon *v.* Ogden Mr. Justice Johnson, cited by

the Senator from Ohio as authority for his position, said (p. 225):

The "power to regulate commerce" here meant to be granted, was that power to regulate commerce which *previously existed in the States.* But what was that power? The States were, unquestionably, supreme; and each possessed that power over commerce, *which is acknowledged to reside in every sovereign State.*

And again (same page):

The history of the times will, therefore, sustain the opinion, that the grant of power over commerce, if intended to be commensurate with the evils existing, and the purpose of remedying those evils, could be only *commensurate with the power of the States over the subject.*

Chief Justice Marshall said, in his opinion of this case (p. 195):

The completely internal commerce of a State, then, may be considered as reserved for the State itself.

Plainly implying that all other power was conferred upon Congress, the sovereign power which existed in Parliament, and the federation passed to the National Government. Nor does he stop with this plain inference. He expressly states (p. 195):

If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government, having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States. The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections are, in this, as in many other instances, as that, for example, of declaring war, the sole restraints on which they have relied to secure them from its abuse. They are the restraints on which the people must often rely, solely, in all representative governments.

In McCulloch *v.* Maryland (4 Wheaton, p. 405) Chief Justice Marshall says:

If any one proposition could command the universal consent of mankind, we might expect it would be this—that the Government of the Union, though limited in its powers, is supreme within its sphere of action.

And further (p. 410):

In America the powers of sovereignty are divided between the Government of the Union and those of the States. They are each sovereign with respect to the objects committed to it, and neither sovereign with respect to the objects committed to the other.

In Brown *v.* Maryland (12 Wheaton, 446) he said:

Those who felt the injury arising from this state of things, and those who were capable of estimating the influence of commerce on the property of nations *perceived the necessity of giving the control over this important subject to a single government.* * * * It is not, therefore, a matter of surprise that the grant should be as extensive as the mischief, and should comprehend all foreign commerce and *all commerce among the States.*

These basic principles upon which the authority of our Government rests, have all been cited again and again by our Supreme Court, whenever questions involving the right of Congress to regulate commerce have arisen.

Justice Harlan, in the Northern Securities case, after quoting the principle laid down by Justice Marshall in Gibbon *v.* Ogden, saying it had never been modified by subsequent decision, inquires (p. 341) whether there is any escape from the conclusion that—

The power of Congress over interstate and international commerce is as full and complete as is the power of any State over its domestic commerce.

Justice White, in his dissenting opinion in this same case, says (p. 339):

It can not be denied that the sum of all just governmental power was enjoyed by the States and the people before the Constitution of the United States was formed. None of the power was abridged by that instrument, except as restrained by constitutional safeguards, and hence *none was lost by the adoption of the Constitution.* The Constitution, whilst distributing the preexisting authority, preserved it all.

He says further in this case:

The right of Congress to regulate to the fullest extent, *to fix the rate to be charged for the movement of interstate commerce,* and to exert any power that flows from the Constitution is conceded.

So much has been said of a parenthetical remark by Mr. Justice Harlan in the Northern Securities case, that I feel warranted in taking time for an explanation which I believe an analysis of the opinion in the case will fully justify. In the first place the conclusion drawn from the interpolated sentence is contrary, not only to the citation just made, but to the whole tenor of Justice Harlan's reasoning on the power of Congress to regulate.

While widely differing as to other legal questions involved, Justices Harlan and White agree perfectly as to the fundamental power of Congress.

Mr. Justice Harlan argues that if a State may strike at combinations in restraint of trade within its exclusive jurisdiction, Congress has the power to protect interstate commerce against such combinations. Mr. Justice White no less emphatically asserts that the right of Congress is conceded to regulate to the fullest extent, *to fix the rate to be charged for the movement of interstate commerce,* and to exert every power that flows from the authority of the Constitution.

But on the other points in the case the two learned judges widely differ. If, instead of reading in cold type, their contending opinions, we imagine ourselves in the consultation room, we get new light on an apparent discrepancy. Justice Harlan says—I quote from his opinion:

Indeed, if the contentions of the defendants are sound, why may not all the railway companies in the United States that are engaged under State charters in interstate and international commerce enter into a combination as the one here in question, and by the device of a holding corporation obtain the absolute control throughout the entire country of rates for passengers and freight beyond the power of Congress to protect the public against their exactions? The argument in behalf of the defendants necessarily leads to such results, and places Congress, although invested by the people of the United States with full authority to regulate interstate and international commerce, in a condition of utter helplessness, so far as the protection of the public against such combinations is concerned.

Justice White replies—I quote from his opinion:

With the full power of the States over corporations created by them and with their authority in respect to local legislation and with power in Congress over interstate commerce, carried to its fullest degree, I can not conceive that if these powers *admittedly possessed by both be fully exerted, a remedy can not be provided fully adequate to suppress evils which may arise from combinations deemed to be injurious.* This must be true, unless it be concluded that by the effect of the mere distribution of power made by the Constitution partial impotency of governmental authority has resulted.

Obviously meaning that the fixing of the rates would suppress the evils complained of in the discussion.

Justice Harlan answers—quoting again from his opinion:

Will it be said that Congress can meet such emergencies by prescribing the rates by which interstate carriers shall be governed in the transportation of freight and passengers? If Congress has the power to fix *such* rates—and upon that question we express no opinion—it does not choose to express its power *in that way* or *to that extent.* It has, all will agree, a large discretion as to the means to be employed in the exercise of any power granted to it. *For the present* it has determined to go no further than to protect the freedom of commerce among the States and with foreign States by declaring illegal all contracts, combinations, conspiracies, or monopolies in restraint of such commerce, and make it a public offense to violate the rule thus prescribed. *How much further it may go we do not now say.* We need only at this time consider whether it has *exceeded its power in enacting the statute here in question.*

Taken in connection with the context, it is in accordance with the spirit, the reasoning, and the language of the great opinion to interpret the parenthetical remark to mean that if Congress has the power to fix *such* rates—as it undoubtedly has, but the question not being in issue we express no opinion—it does not choose to exercise its power *in that way* or *to that extent.* This view is sustained by—

How much further it may go we do not now say. We need only at this time consider whether it has exceeded its powers in enacting this power here in question.

While it has no relevancy to the legal merits of the case, it may be worth while to notice in passing that Justice Harlan at another point makes a similar parenthetical remark in the course of his argument. On page 351 he says:

But if nothing more can be said than that Congress has erred—*and the court must not be understood as saying that it has or has not erred*—the remedy for the error and the attendant mischief is the selection of new Senators and Representatives, who, by legislation, will make such changes in existing statutes as may be demanded by their constituents and be consistent with law.

On page 337 he says:

Undoubtedly there are those who think that the general business interests and prosperity of the country will be best promoted if the rule of competition is not applied. But there are others who believe that such a rule is more necessary in these days of enormous wealth than it ever was in any former period of history.

One almost feels warranted in believing the court did not think Congress had erred in spite of the parenthetical reservation. No more do I believe he thought or meant to say that the power of Congress to fix rates was an open question.

RIGHT TO FIX RATES NOT DEPENDENT ON FRANCHISE.

It is true that the States have emphasized the franchise as warrant and justification for the regulation of rates.

But the Supreme Court of the United States has decided that the right to regulate does not originate in the right to charter, but rests upon the broad principle that *when property is devoted to public use it is subject to control in the public interest.* Chief Justice Waite, in Munn *v.* Illinois (94 U. S. 113), after a thorough review of English and American authorities, settled beyond controversy that property devoted to public service was from the *nature of the business* subject to Government control.

In Chicago, Burlington and Quincy Railway Company *v.* Iowa (94 U. S., p. 161) Chief Justice Waite directly and explicitly applies the rule laid down in Munn *v.* Illinois to *railroad rate regulation:*

Railroad companies are carriers for hire. They are therefore engaged in a public employment affecting the public interest, and under the decision in Munn *v.* Illinois (supra, p. 113) subject to legislative control as to their rates of fare and freight, unless protected by their charters.

In Piek *v.* Chicago (94 U. S., p. 176):

In Munn *v.* Illinois (supra, p. 113) and Chicago, Burlington and Quincy Railway Company *v.* Iowa (supra, p. 155) we decided that the State may limit the amount of charges by railroad companies for fares and freights, unless restrained by some contract in the charter.

The power of Congress, therefore, to fix rates of fare and freight extends to all interstate commerce. It is not limited to the railroad it has incorporated. On the other hand, the only possible legal escape from regulation is in the case of roads that may have secured specific exemption from regulation under charters granted by the Government. The Supreme Court of the United States has decided that Congress has the same power over interstate commerce that the States have over State commerce. It has decided that the States can fix rates through a commission. What the States can do in regulating State traffic Congress can do in regulating interstate traffic.

The right to fix the rate is not, as has been assumed in this discussion, an extension of the power to regulate commerce. *It is included in, and inseparable from, the power to insure reasonable rates.* It is the means to an end. A rate is compensation for service. There is no difference in principle in fixing a maximum, a minimum, or an absolute rate. The fixing of the rate is but a *corollary* to the power to insure reasonable rates.

SUPREME COURT DECISIONS PRESERVE FUNDAMENTAL RIGHTS OF GOVERNMENT.

Corporate interests have little reason to expect aid and comfort from the Supreme Court. The opinion by Mr. Justice White in the Coal case, delivered in February, that by Mr. Justice Harlan in the Chicago Corporation cases, in March, and the opinion by Mr. Justice Brewer in the Michigan Tax case, rendered within a few days, are opportune illustrations of the conservation by the Supreme Court of the inherent rights of the people against the encroachment of corporate power. To the great honor of the court and to the preservation of Government, this final tribunal remains as unsullied and ideal to-day as when created by the Constitution. The great interests have not hesitated to corrupt legislation and propose its attorneys for judicial appointment, but its taint has never reached the Supreme Court of the United States.

Our system of courts is complicated. Decisions are numerous. The wisest men differ; sometimes err. Language can not be used so perfectly that misunderstanding may not arise as to its meaning. Even when principles of law have been well established there always remain isolated cases that can be cited to prove conflict of authority.

But, as has been ably shown in this debate, the long line of authoritative decisions by our Supreme Court in epoch-making cases, arising out of rate regulation for the past thirty-odd years, have been consistent and unwavering in the application of fundamental principles for the preservation of which our Government was founded.

More progress has been made through the court decisions than by specific legislation. The overbalancing control of State and national legislatures by public-service corporations has often resulted in weak laws. But the Supreme Court, in deciding questions arising under these laws, has settled important constitutional rights. The decisions furnish a solid basis upon which to legislate at this time.

The people have no need to fear the final judgment of the Supreme Court. Indeed, they have every reason to seek the final adjudication of questions involving public rights by our highest court. Again and again it has interposed the strong arm of the law between the people and the unlawful encroachment of corporate power.

When in the early seventies the struggle between the States and the railroads culminated in the so-called "Granger" legislation, it was the courts that rebuked the corporations for trampling on the rights of the people, and in language never to be forgotten illuminated this whole question. They showed that the great movement was not, as the Senator from Massachusetts [Mr. LODGE] has described this legislation to be—the result of "public clamor" nor "sporadic excitement"—but that it was an uprising against abuse of power, and was based upon fundamental rights.

In the Attorney-General *v.* The Railroad Companies (35 Wisconsin, 580), Chief Justice Ryan said:

We listened to a great deal of denunciation of chapter 273 which, we think, was misapplied. We do not mean to say that the act is not open to criticism. We only say that such criticism is unfounded. It was said that its provisions which have been noticed were not within the scope of the legislative function; *as if every compilation of statutes, everywhere, in all time, did not contain provisions limiting and regulating tolls;* as if the very franchise altered were not a rebuke to such clamor. It was repeated, with a singular confusion of ideas and a singular perversion of terms, that the provisions of the chapter amount to an act of confiscation; a well-defined term in the law, signifying the appropriation by the State, to itself, for its own use, as upon forfeiture, the whole thing confiscated. It was denounced as an act of communism. We thank God that communism is a foreign abomination without recognition or sympathy here. The people of Wisconsin are too intelligent, too staid, too just, too busy, too prosperous for any such horror of doctrine; for any leaning toward confiscation or communism. And these wild terms are as applicable to a statute limiting the rates of toll on railroads as the term "murder" is to the surgeon's wholesome use of the knife to save life, not to take it. Such objections do not rise to the dignity of argument. They belong to that order of grumbling against legal duty and legal liability which would rail the seal from off the bond.

And again, referring to the claim that the legislation was the result of passion, he said, if there be anger—

It is rather of the nature of parental anger against those *spoiled children of legislation, as our statute books abundantly show them to be, who, after some quarter of a century of legislative favors, lavishly showered upon them, unwisely mutiny against the first serious legislative restraint they have met.*

In 1876 Chief Justice Waite, in Munn *v.* Illinois and the Granger cases, made secure to the people the fundamental principle that "when property is devoted to public use it is subject to public regulation."

The spirit in which the courts administered the responsibility laid upon them in these cases is well expressed by Justice Waite in the closing words of his decision:

In passing upon the case we have not been unmindful of the vast importance of the questions involved. This and cases of a kindred character were argued before us more than a year ago by most eminent counsel, and in a manner worthy of their well-earned reputations. We have kept the cases long under advisement in order that their decision might be the result of our mature deliberation.

From the decision of those cases to the present time the trend of the interpretation, and of the application of the law by the courts of last resort to the multitude of cases that have arisen, has been a distinct gain for popular rights.

"BROAD" COURT REVIEW.

It should be remembered that effort to limit the jurisdiction of the courts within the constitutional right to limit is not an expression of distrust of the final adjudication of corporation questions by the Supreme Court.

The appointment of judges of the inferior courts upon the recommendation of United States Senators as a part of the ordinary official patronage is bad in principle, and one which has not been without occasional bad results. Where judges have been identified with corporate interests previous to their appointment upon the bench there is danger of bias in judgment, even though motives may not be questioned. With the great awakening to the dangers that threaten representative government through corporate influence, there undoubtedly exists some uneasiness as to whether even the sacred tribunals of justice have entirely escaped the entangling net of the "system" from which the nation is struggling to free itself.

Nevertheless, it is not the fear of the direct or indirect corruption of the courts that constitutes the primary motive back of this effort to limit the jurisdiction of the courts. It is fear of the *abuse of the right of litigation.*

It is common knowledge that whenever any legislation affects railroad interests—no matter how just and righteous it may be—they convert the machinery of the law into an instrument to defeat the purpose of the law.

Mr. President, I hope I am not prejudiced against any interests involved in legislation. The first duty of a legislator is to free his judgment from bias. I trust that long contention with the forces this legislation aims to control has not warped my standard. The organized wealth of this country is aggressive. It is unscrupulous. No power other than that of the Government can cope with it. I believe the existence of government—real, representative government for the people—is at stake. The sovereign right conferred on Congress to regulate commerce is the vantage ground in the struggle.

No matter how great the burden, how grievous the wrong, no State can go outside its boundaries to exercise the sovereign right to protect its citizens from tyranny of transportation companies. Even within their own boundaries the States are seriously handicapped by the constitutional limitations respecting State and interstate commerce, as everyone well knows who has attempted to do anything with the State problem.

The great bulk of commerce is interstate. The National Government has the exclusive power to regulate interstate commerce. It has the responsibility that goes with the power. Shall Congress use it freely, courageously, or timidly, cringingly, ineffectively?

The Supreme Court has decided that the Constitution fixes a limitation upon the power of Congress to establish rates. The fifth amendment provides that private property shall not be taken for public use without just compensation. The constitutionality of the orders of the Commission can always be tested on this ground, regardless of any express provision in the law to that effect.

Legally, it is as needless to provide that carriers may appeal to

the courts to test the constitutionality of a law affecting their interests as it would be to add that provision to each and every law that passes Congress. The question of providing a so-called "broad court review" has resolved itself into one of public policy. Shall Congress expressly or impliedly extend to the carriers greater privileges of litigation than the Constitution guarantees them, or shall Congress limit their opportunity of litigation in so far as the Constitution permits?

Why should Congress provide that the railroads shall have the right to appeal from the rate established by the Commission on any other than constitutional grounds? Is not the provision that their property shall not be taken without just compensation sufficient protection? Does any man fear the precedent? Is it not the same test that the private citizen must abide when the railroad, by the authority conferred on it by the State, takes his home, without regard to its precious associations, and awards him only just compensation?

Does any man fear that limiting railroad companies to their constitutional rights will work them any wrong? Consider that Congress might itself fix a schedule of rates and prescribe specific regulations. What does it do instead? It creates a Commission. The Interstate Commerce Commission is appointed by the President. It is confirmed by the Senate. It is charged with great responsibility and great power. It must be assumed that the President in appointing, and the Senate in confirming, will exercise great care. Their selection will be made with the same singleness of purpose with which the Supreme Court of the United States is chosen. Integrity, ability, fitness will be the consideration.

The members of the Commission, by the terms of the act, give all their time exclusively to the study of this single complex problem. They acquire expert knowledge. They reach definite well-grounded conclusions as to what constitutes reasonable rates and just practices in transportation. They are as conscientious as any court would be in the discharge of the duties assigned. Their judgment when finally reached is as deliberate, unbiased, and disinterested as that of any court. It is their duty to insure reasonable and just transportation rates to the public and to prevent unfair and discriminatory charges. That would be the duty of the court likewise. But the Commission presumably has a very much broader knowledge and deeper insight into the determining facts than any court could acquire in the course of a brief trial.

The Commission and the courts should complement each other. The Commission is the tribunal of the facts; the courts of the law. The Commission must always have consideration of the law in its application to facts. The courts must, of course, consider facts in the application of the law; but it is in the public interest that the judgment of the Commission on the facts should be final where possible.

There should be no unnecessary complexity in the solution of a great problem. There should be intelligent and economic division of work. The courts review the laws made by Congress to test their constitutionality. The Supreme Court has repeatedly said it does not pass upon the wisdom of laws.

The Commission may err. The judgment of the wisest, most conscientious, and most expert man is not always infallible. The conclusions of the court are not always infallible. But we must abide by them. For generations of time the judgment of juries as to facts has been accepted as final. How much more reliable the judgment of expert commissioners of the same high character and standing as the court. When the plain citizen must abide the verdict of the jury as to the facts, can it be seriously contended that the corporations should be accorded the privilege of having the facts adjudged by an expert commission tried over again in the courts? Is not their constitutional right a sufficient guaranty that they will not suffer serious wrong?

Does any man honestly believe the corporations are clamoring for a broad review in the interest of justice? Would they care for the privilege except as it gives opportunity for the endless delays of litigation that tend to defeat substantial justice?

PRELIMINARY INJUNCTION.

Within the past ten days the Senator from Texas [Mr. BAILEY] has made an argument that will be memorable in history. It is generally conceded that the adoption of his proposed amendment is no longer a constitutional question. It is now before the Senate as a question of public policy.

The acceptance of this amendment and the rejection of the proposition of a broad court review have the same sound basis.

The common-law right to preliminary injunction was to prevent "irreparable injury." The creation of a commission of this high order to investigate the subject and decide upon rates with the same deliberate judgment exercised by a court, precludes the necessity of this procedure.

There is much less danger of railroad companies suffering from the decisions of the Commission than of the shippers being wronged by the action of the court that grants the preliminary injunction. The order of the Commission is reached after full consideration of all the facts; that of the court for preliminary injunction is the judgment of one judge upon affidavit by an interested party.

I would not, in dealing with corporations, establish any precedent that might not be safely applied to protect the property rights of any citizen. But I would not be more careful, more cautious, more timid in dealing with corporations than in dealing with individuals. It has seemed to me that some who have spoken for this legislation have been too much on the defensive. They have been more eloquent and enthusiastic over their anxiety to defend the corporate interests from all harm than over their desire to frame a law that will bring railroad corporations back to their plain duties as common carriers, and protect the people from the existing intolerable abuses in transportation.

Prohibiting the use of preliminary injunction will enhance the value of this legislation beyond all computation. The operation of the law will be simplified and justice promoted.

To cut out this much-abused process will not confer autocratic power upon the Commission. Indeed, it will not in anywise affect the power of the Commission. It will put upon the railroad companies the burden of hastening instead of delaying the final judgment of the court if they are sincerely seeking to secure justice.

Mr. President, I pause in my remarks to say this. I can not be wholly indifferent to the fact that Senators by their absence at this time indicate their want of interest in what I may have to say upon this subject. The public is interested. Unless this important question is rightly settled seats now temporarily vacant may be permanently vacated by those who have the right to occupy them at this time. [Applause in the galleries.]

Mr. KEAN. Mr. President, I rise to a question of order.

Mr. LA FOLLETTE. I do not ask to have Senators called back here who feel no interest in what I have to say. I know that the country will take interest in the discussion that I shall make of the defects in this proposed legislation.

The PRESIDING OFFICER (Mr. LONG in the chair). The Senator from Wisconsin will suspend.

Mr. KEAN. I rise to a question of order.

The PRESIDING OFFICER. The Senator from New Jersey will state his question of order.

Mr. KEAN. I ask that the rules of the Senate be enforced, and that the galleries be cleared.

The PRESIDING OFFICER. The Presiding Officer will admonish the occupants of the galleries, that it is contrary to the rules of the Senate to express approval or disapproval of any remarks that may be made, and upon a recurrence of it the galleries will be ordered cleared.

HISTORY OF THE MOVEMENT.

Mr. LA FOLLETTE. Partisan politics should have no place in our discussion of this measure. It should influence no man's action. The question with which we are dealing goes too deeply into the life of the people of this country and the integrity of their Government to permit a single page of the record we are making to be stained with party strife for party advantage.

That this bill is before Congress to-day goes to the credit of no party, no platform, no man. It is here because the subject with which it purports to deal can no longer be suppressed. The principle back of this bill is not new. It was written in the Constitution in the beginning and asserted as a legislative power by four States in the upper Mississippi Valley more than thirty years ago. It is here to-day in the fullness of a generation of lusty growth, demanding not partial, but complete recognition.

Let us not mistake. This is no spasm of sentiment, no angry protest fired by agitation. It is the mature judgment of an enlightened public opinion, ripened by long experience and patient investigation. More than a score of years have passed since it became the settled conviction of the country—shippers, consumers, and producers alike—that the Federal Government had the absolute right and owed it as a duty to the public to regulate and control transportation charges on interstate commerce.

GRANGER STATE LEGISLATION.

Wisconsin, Illinois, Iowa, and Minnesota had led the way. The legislation of that period, known in the decisions and in history as the "Granger legislation," has suffered unjust criticism from that day to this. It was denounced as radical and revolutionary; as certain to demoralize business, drive out capital, stop all railroad construction, and arrest all develop-

ment within the limits of these four States. Determined to prevent the spread of that legislation to other States, the press and periodicals were enlisted, economic writers employed, statistical bureaus organized, and all the agencies which the carriers of the country could command were set in motion to that end.

The literature of that time teems with startling accounts of "Railroad construction at a standstill," the "Collapse of railroad business," the "Spoliation and ruination of railroad property," the "Checking of all development in the Granger States." In that period the railroads were almost wholly in command of the statistics essential to an intelligent discussion of the question. They falsified the figures and imposed upon the public. It is not strange that economic writers of reputation, accepting the data of that heated time, should have been misled.

It is due to the pioneers of that movement and pertinent to this discussion that the misstatements of fact which have stood for thirty years should be corrected.

The Granger legislation was a rational and conservative protest, in statutory form, against an arbitrary, unjust, and oppressive control of transportation and transportation charges by common carriers.

Mr. A. B. Stickney, president of the Chicago and Great Western Railroad, in his work on "The Railway Problem," written with an intimate knowledge of the conditions leading up to the Granger legislation, says of the methods employed by these corporations:

> The companies at first denied that they were common carriers or subject to the duties or restrictions imposed upon such carriers by the common law. * * * The managers claimed the right to charge such rates * * * as they deemed for the best interests of their respective companies regardless of their reasonableness or equality. They claimed and exercised the right to grant monopolies in business to favored individuals and firms * * * by exercise of their powers to discriminate in regard to rates and combinations. * * * They assumed the right to dictate to communities in what market town they would sell their produce and buy their supplies. Thus a community located 40 miles distant from St. Paul and 400 miles distant from Chicago was compelled to trade in Chicago, so as to give the railway the long haul, and in order to enforce this dictation they did not hesitate to make the rate for 40 miles as much or more than for 400 miles. * * * They believed they had the right so to make their schedule of rates, as to determine which of the villages on their line should become centers of trade beyond their local territory. * * * They also varied their schedules in such a way that they discriminated in regard to rates between individual merchants, manufacturers, miners, and other business men, so as practically to determine which should become prosperous and wealthy, and which should not.

As I shall have occasion to show later, the railroads of the country, excepting where partially restrained by law, have continued to the present time the identical wrongs and the same abuse of power which they practised upon the people in Wisconsin, Illinois, Iowa, and Minnesota, set forth in the quotation from President Stickney.

The Granger statutes, so long and violently condemned, were imperfect with respect to some of the provisions for their enforcement, but they were correct in asserting the principle of government control, and were reasonable in their terms, in so far as the railroads were concerned.

The Wisconsin law was enacted in 1874 and repealed in 1876, and Granger laws were enacted—Minnesota in 1871, Illinois in 1873, and Iowa in 1874. By the beginning of 1875 it may be assumed that the effect of these Granger statutes would be fairly felt in all of the Granger States. Michigan, Indiana, Missouri, and Nebraska are four States more nearly similar in development, character of industry, and population than any other States with which comparison could be instituted. These four last-named States were not affected by the so-called Granger legislation.

It is possible, therefore, by comparison, to ascertain the effect of the railroad legislation upon the four Granger States. I have also worked out a like comparison with the Middle Atlantic States, namely, New York, New Jersey, Pennsylvania, Delaware, Maryland, and West Virginia, in one group; the Southern States—Kentucky, North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi—in another group; and, finally, broadened the entire comparison to and including the railway mileage of all the States in the Union. I was thus able to test the results of the Granger legislation upon the railroads of the Granger States, by comparing railroad development and railroad receipts between the Granger States and the four adjoining States, between the Granger States and the Middle Atlantic States named, between the Granger States and the Southern States named, and likewise a comparison of the progress of railroad building and railroad receipts in the four Granger States as compared with the country at large.

I submit a table showing the railway mileage for the years 1871 to 1880:

States.	1871.	1873.	1875.	1880.
Wisconsin, Illinois, Iowa, and Minnesota	12,401	14,627	15,515	19,428
Michigan, Indiana, Missouri, and Nebraska	9,168	10,932	11,381	14,396
Middle Atlantic States	12,030	13,643	14,455	15,949
Southern States	12,013	12,977	13,287	14,908
United States	60,293	70,278	74,096	93,671

Taking the railroad mileage for 1873, the year immediately preceding the legislation, and comparing it with the railroad mileage in 1875, by which time the effect of the Granger laws should have become clearly manifest, we find that railroad construction increased for the four Granger States 6.1 per cent; the four adjoining States, 4.1 per cent; the Atlantic States, 5.9 per cent; the Southern States, 2.4 per cent, and the United States, as a whole, 5.5 per cent.

It will therefore be seen that the Granger legislation did not stop railroad construction in the four Granger States. Indeed, they not only held their own, but increased their railroad mileage over their immediate neighbors, and the other groups with which comparison is made, as well as the country at large. Let us test the matter further.

The following table shows the gross earnings for the years 1871 to 1880:

States.	1871.	1873.	1875.	1880.
Wisconsin, Illinois, and Iowa	$54,994,114	$70,027,777	$69,621,065	$86,954,346
Michigan, Indiana, and Missouri	44,433,246	59,106,865	54,731,069	79,038,920
Middle Atlantic States	147,130,494	194,052,302	175,677,418	199,003,718
Southern States	41,772,102	53,696,409	50,399,227	48,317,754
United States	403,329,208	526,419,935	503,065,505	615,401,931

I found it impossible to include Minnesota and Nebraska in this comparison, for the reason that I could not procure complete data of the railway earnings of those States for the period named. For this reason, excepting those two States—Minnesota from the group of Granger States and Nebraska from the group of adjoining States—carrying out the same comparisons with the several groups of States included in the calculations with respect to railway mileage, I found that the gross earnings decreased in the Granger States from 1873 to and including 1875 one-half of 1 per cent; in the adjoining States, 7½ per cent; in the Middle States the gross earnings decreased 9½ per cent; in the Southern States, 6½ per cent; in the whole country, 4.4 per cent. It is shown, therefore, that during this period of general decline in the gross receipts of the railways the earnings in the Granger States were less affected than adjoining States or in the other groups and suffered vastly less than the country at large.

The comparison of net earnings is equally significant. In the Granger States from 1873 to 1875 there was a substantial increase in the net earnings. In the adjoining States there was a decline in the net earnings amounting to 3 per cent. It therefore appears that the railroads of the Granger States were able to withstand not only the "dire effects" of the Granger legislation, but the depression which began with the panic in the money and stock markets in 1873 and spread to every operation in finance and commerce, continuing until the end of 1878.

I have submitted in this connection but a small portion of the results of an investigation of this subject, every fact of which makes the demonstration stronger, that the Granger legislation neither retarded railway construction nor diminished railway receipts; that it did not demoralize business or stay industrial development anywhere within its jurisdiction. The hue and cry raised by the railroads in advance, and continued after the statutes were enacted, accompanied with threats and warning, served in some measure the purpose of the railroad companies.

Within two years they secured control of the Wisconsin legislature and repealed the Granger statute in that State. For twenty-eight years thereafter they were powerful enough in the legislature of Wisconsin to defeat the enactment of any law for the regulation of railway rates within that State. The Minnesota statute was likewise repealed. Illinois maintained her hold upon the legislation secured, and succeeded in strengthening it in some measure. In Iowa the struggle was protracted until 1888, when she enacted a new and in many respects a most excellent statute, under which rates were established by a commission which, at the time, were fair to the railroads and just to the people.

I shall have occasion later to refer to these States as bearing upon the proposition to invest a Federal commission with full power to ascertain and enforce reasonable rates.

FEDERAL LEGISLATION.

I come now to the consideration of Federal legislation. It was inevitable that the conditions which invoked State authority in regulation of State commerce should seek to secure the exercise of Government authority in the regulation of interstate commerce; and it was to be expected that the section of the country which had first proclaimed the right to control common carriers through State legislation should furnish the men to first assert that right in Federal legislation.

March 26, 1874, the House of Representatives passed a bill introduced by Mr. McCrary, of Iowa, which marks the beginning of positive legislative action upon the broad question of railway rate regulation.

It has been asserted in this debate that the first bill ever introduced in Congress upon that subject was introduced by Mr. Charles Sumner. As no copy of that bill can be found in the files of Congress, and as the title is somewhat misleading, it is quite natural that that statement should have been made. An investigation of contemporary publications, however, discloses the fact that the Sumner bill had reference solely to the transportation of troops and did not deal at all with the question under consideration by Congress at the present time.

The McCrary bill, considering the early date of its adoption in the House—thirteen years before the final passage of the interstate-commerce act—was a very comprehensive measure and merits some attention in this connection. Referring only to the main provisions respecting the regulation of rates: It provided that no interstate carrier should receive more than a fair and reasonable rate of compensation for any transportation service. It proposed to create a board of railroad commissioners of nine members. The commissioners were empowered to investigate thoroughly freight and passenger charges, and the reasonableness thereof, and prepare schedules of reasonable maximum rates, and to change and revise the same "so often as circumstances may require." Penalties were provided for charging more than reasonable rates, and it was made the duty of the Commission to bring suit, upon ascertaining facts warranting such action, for the enforcement of said penalties. If upon trial of said suit it should appear that the defendant had charged more than provided for in such schedules, it was provided that—

> In that case such defendant shall be deemed and held guilty of extortion and liable therefor, unless such defendant shall show affirmatively that the rate charged * * * was nevertheless fair and reasonable.

The bill was so amended pending its consideration by the House as to make its penalties apply to discriminations as well as to unreasonable and extortionate rates. The McCrary bill did not pass the Senate.

From the passage of the McCrary bill by the House, March 25, 1874, neither branch of Congress passed any measure until 1878, when the House passed the Reagan bill. In the meantime the system of discriminations between persons, localities, and commodities, which were of secondary consideration when the McCrary bill was passed, had grown so aggravated in character as to become of primary interest by 1878. This is reflected in the new bills introduced from 1874 to 1878. It doubtless accounts mainly for the fact that the Reagan bill of this date was designed to prevent discriminations. The Reagan bill passed the House, but it did not pass the Senate.

Two years before the Reagan bill of 1878 passed the House, the Supreme Court had decided the Granger cases and the Munn case, and had settled great principles lying at the foundation of this important subject. Its decisions pointed the way for Congress. Yet no legislation was enacted until 1887, when the interstate-commerce law was finally passed.

The act of 1887 declared unreasonable rates unlawful, and imposed penalties for discriminations as to persons, places, and commodities. The report made by the Committee on Interstate Commerce presenting the bill to the Senate states the evils which the bill was intended to remedy, and among them enumerated the following:

> That local rates are unreasonably high as compared with through rates.
>
> That both local rates and through rates are unreasonably high at noncompeting points, either from the absence of competition or in consequence of pooling agreements that restrict its operation.
>
> That rates are established without apparent regard to the services performed, and are based largely on what the traffic will bear.
>
> That the stock and bonded indebtedness of the roads largely exceed the actual cost of their construction or their present value, and that unreasonable rates are charged in the effort to pay dividends on watered stock and interest on bonds improperly issued.

The report from which the foregoing is extracted is voluminous and is one of the important contributions to the literature of this subject.

RAILROADS AND TRUSTS.

Mr. President, I have sketched briefly the main facts in the development and history of legislation in relation to the transportation problem down to the date of the enactment of the interstate-commerce law in 1887. During this period—from 1870 to 1887—many events of great moment transpired with respect to the commerce and the industries of the country. The failure of Congress to give heed to the manifest relation of trust organization to transportation throughout the early period; the failure of Congress to broaden and strengthen the law of 1887 when its weakness became apparent, making it represent the full constitutional power of the Federal Government; the failure of Congress to repair even its fatal defects when plainly pointed out by the Supreme Court and the Commission, makes the mortifying recital of the next period in this history.

Contemporaneous with the history of thirty years' struggle for rate regulation is the history of the insidious growth of trusts and a single legislative attempt to cope with the resulting evils independent of railroad legislation.

There was a trust investigation in 1875–76 that revealed a suggestion of the truth with respect to the criminal compact between Standard Oil and the railroads. It was shown that John D. Rockefeller and his associates, aided by alliance with the transportation lines running through the oil regions, were crushing opposition and laying the foundation for the most powerful monopoly in the world.

The testimony of the Congressional committee of 1876, the Hepburn committee of 1879, the Senate committee of 1885, the House committees of 1888 and 1893, all demonstrated the evil nature of the alliance of the railroads with Standard Oil, with the beef, and with the coal combine. From 80 to 100 bills were introduced in Congress, but they did not get beyond the committees to which they were referred. Driven to cover and the exercise of greater caution by the partial exposure of their criminal methods, reorganizations were effected by the growing monopolies, names were changed, and public indignation was quieted.

But by 1890 it had become apparent that powerful influences were at work in the business world destroying equality of opportunity. Markets and prices were disturbed and established business enterprises forced out of the field. The public began to understand that combinations were forming, that trust organizations were being effected in many lines of production, and that these organizations were suppressing competition.

The current literature of that time makes interesting reading to-day. It was charged on the one hand that the trust was the offspring of the tariff. It was declared upon the other that the trust was a progressive business evolution, a legitimate effort to cheapen production. Two great national campaigns were waged mainly upon the issue that the tariff was the mother of trust and combination.

In the meantime a national statute had been enacted which was aimed at the trust and combination as an independent conspiracy. The lesson of the Standard Oil, the beef, and coal alliance with transportation seemed well-nigh forgotten. The Sherman Act was the work of a statesman and would have aided greatly if its violations had been vigorously prosecuted. But it was made apparent very early that the *root* of the evil can not be reached by striking at the trusts alone. It is the *railroads in combination with the trusts* that constitutes the great problem.

FAILURE OF INTERSTATE-COMMERCE LAW.

In May, 1897, the Supreme Court in the Maximum Rate case decided that it was not the intent of the interstate-commerce law to invest the Commission with authority to enforce its determination with respect to rates. This reduced the Commission merely to a body authorized to hear complaints, take testimony, and make recommendations. The legislative intent as determined by the court is not questioned. The fact remains, however, that many who participated in the legislation—the Commission, the railroads, and the public—understood that authority to supervise rates and to issue orders and decrees with respect to what a rate should be was conferred upon the Commission at the time the law was enacted.

This statement is of value at this time only as bearing upon the scope of the authority to be conferred upon the Commission by this Congress, the intent of which, it is hoped, will be made so clear as to leave nothing to require construction.

The first Interstate Commerce Commission, Judge Thomas M. Cooley, chairman, construed the law as giving to it supervision over rates and authority to issue orders as to what a rate should be. The first case decided after the Commission organized, the Walla Walla Grain case, in the decision of which Judge Cooley participated, placed this construction upon the law.

During the entire time that he continued as a member of the Commission and long thereafter the Commission construed the law in like manner as to all cases raising that issue.

The Commission in its annual report for 1897 thus states the fact with respect to the exercise of this supposed power:

> The Commission exercised this power in a case commenced in the second month after its organization and continued to exercise it for a period of more than ten years, during which time no member of the Commission ever officially questioned the existence of such authority or failed to join in its exercise.

It was so accepted by the railroads, and for years the question was not even raised. That the interstate-commerce act for a time exerted a wholesome influence upon carriers and shippers and, in a measure, checked the upbuilding of monopoly through discriminations the public was certainly led to believe. There was a show of compliance with the law following its enactment. But it soon became apparent that the practices prohibited by the law were being resumed. Passes were issued to favored individuals, rebates were again granted, substitutions for rebates were resorted to, and discriminations practiced in various ways.

RECOMMENDATIONS OF 1897.

In its report for 1897, after reviewing the result of this decision and those which had preceded it, each one further reducing its efficiency, the Commission presented the unfortunate situation as follows:

> There is to-day, and there can be under the law as now interpreted, *no effective regulation* of interstate carriers. If there is to be under this act it must be amended. From the best considerations we have been able to give the subject, we believe that the most essential features of such an act must be those previously enacted. A tribunal which regulates the common carriers by railroad of interstate traffic, which can stand for justice and fairness between these carriers and the people, must have the power to fix a maximum rate, to fix in certain instances a minimum rate, and its orders when made must mean something.

After carefully reviewing the decision of the court which denied to the Commission the right to continue in the exercise of the powers of regulation theretofore exercised, the Commission made careful and specific recommendations in its report for 1897 for the amendment of the act. It was recommended that the act be so amended as to empower the Commission to call in question any rate or charge, and issue an order upon the carrier, either *upon its own motion* or upon a complaint being made to the Commission to appear and "to show cause why said rate shall not be held to be unreasonable or otherwise in violation of law," and on such order and notification to the carrier to have a "full hearing." The amendment as proposed goes on to provide what I shall read.

I beg the attention of Senators here to what I shall now quote. It is the *specific recommendation* of this Commission as to what it is *necessary for Congress* to do if we are so to amend the law of 1887 as to *regulate railway rates and practices.* I read from the report of the Commission for 1897:

> If the Commission is of the opinion that the rates, fares, or charges as filed and published, or the classification, facilities, and regulations published in connection therewith are unreasonable or otherwise in violation of law, *it shall determine what are and shall be reasonable* and otherwise lawful rates and fares, charges, classifications * * * and *shall prescribe the same* and *shall order the carriers* to *file* and *publish schedules in accordance* with such decision.

And such orders were to be enforcible under the penalties provided in section 16 of the act. And it was further proposed to be provided that on full hearing the Commission could make any further reduction in such rates.

It was further proposed to amend the act in section 15, to provide that if, after a full hearing—

> It is determined that any carrier is in violation of the provisions of this act, the Commission shall make an order directing such carrier to cease and desist from such further violation, and shall prescribe in such order the thing which the carrier is required to do or not to do for the future to bring itself into conformity with the provisions of this act; and in so doing it shall have power—
>
> (a) *To fix a maximum rate* covering the entire cost of the service;
>
> (b) To fix *both a maximum and a minimum rate* when that may be necessary to prevent discrimination under the third section; * * *
>
> (d) To *make changes* in classification;
>
> (e) To so *amend the rules and regulations* under which the traffic moves as to bring them into conformity with the provisions of this act.

These are the recommendations of the Commission in 1897, ten years after it was established. With a decade of experience the Commission well understood what powers were vitally essential to an effective administration of the law. The authority to do these specific things they declared to be necessary if there was to be a regulation of railway rates and railway services.

This was, indeed, an urgent appeal. It seems well-nigh incredible that it should have failed to meet approval in either branch of the National Legislature.

COMMISSION'S RECOMMENDATIONS AUTHORITATIVE.

Mr. President, the Interstate Commerce Commission has, I believe, ever since that body was first organized, been composed of men distinguished for their ability, learning, and special fitness. Without exception they have been men of the highest character. I believe that they have been fearless and impartial in the discharge of official obligation. They are the appointees of Democratic and Republican Administrations. The Senate has consented to and approved their selection. The task of the Commission has been from the beginning a most arduous one. Dealing with great and complex interests, it constitutes a branch of the official service which enjoys the esteem and confidence of the American public. Bringing to the charge of official duty a varied training and experience, concentrating every faculty of thoroughly disciplined minds upon the questions involved in the regulation of interstate commerce of this great nation, it could not fail to become easily the highest authority in the special field of its employment.

Mr. President, the gifted and distinguished Senator from Texas, in support of his amendment to take from inferior courts the right to suspend by preliminary injunction the rates fixed by the Commission, urged that the expert knowledge of the Commissioners, acquired by constant application to all of the problems of transportation, made their judgment with respect to the reasonableness of the rates superior to that of the court. I think all who heard him were compelled to agree with that contention.

That which is true of the Commission's ability to judge wisely with respect to rates in the trial of a particular case is equally true with respect to all of the duties which they are constantly called upon to discharge. But, Mr. President, above all things is it true that the Commissioners are best able to judge wisely with respect to the law itself which they are called upon to administer. They go patiently through with every case, from the filing of the complaint to the final judgment rendered upon the record, and must consider well the law with respect to its every phase. They must study every section and sentence of the statute day after day and year after year; they hear it discussed and dissected and expounded by the able lawyers for the complainant and by the learned counsel of the greatest railroad corporations in the world.

Of all men they ought to be the ones best able to submit recommendations to Congress with respect to changes in the law; if it is defective, to point out the defects; if its faults can be remedied, to suggest the remedy. Their recommendations are without prejudice or bias. We can take them as we would the unanimous opinion of the judges of the Supreme Bench with regard to the faults and weaknesses and injustice of any law which the court is called upon to construe. Indeed the Commission has this advantage: Any court must hear many cases and pass upon different statutes; the Commission deals every day with the same law and with its relation to the same subject.

For these reasons the statesmen who framed the interstate-commerce law in 1887 provided:

> That the Commission shall, on or before the 1st day of December in each year, make a report, which shall be transmitted to Congress, copies of which shall be distributed as are other reports transmitted to Congress. This report shall contain such information and data collected by the Commission as may be considered of value to the determination of questions connected with the regulation of Commerce—

Now, mark what follows!—

> *together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary.*

Congress therefore laid its commands upon the Commission to recommend legislation, the need for which should become apparent to them in administering the duties of their office.

RECOMMENDATIONS IGNORED.

Mr. President, I now call the attention of the Senate to the fact that these important recommendations have been urged again and again, and that they have been ignored by Congress year after year.

Congress having failed to act upon the recommendation of the Commission in 1897, to correct the defects of the law as shown by the Maximum Rate Case, the Commission again urged action upon those same recommendations in the report for 1898, saying:

> There is now no power, in the judgment of the Commission or in the judgment of the court, to restrain a railroad company from demanding and receiving unreasonable and unjust charges.

They said further:

> The power of establishing or fixing reasonable rates in advance is the only practical legal remedy for extortion and unreasonable and unjust charges.

In this report reference is made to the report of the previous year in the following language:

> We have not only set forth in general terms the necessity for amending the law, but have formulated and proposed the specific amendments which appear to us positively essential. With the renewal of these recommendations, no duty of the Commission in this regard remains undischarged.

Congress having failed to act upon this recommendation, the Commission, in its report for 1899, said:

Every consideration of private justice and public welfare demands that railway rates shall be reasonable, uniform to all shippers, and equitable between all communities. Until needful legislation is supplied that demand must remain unsatisfied.

Reference is made in this report to the recommendations previously made, the many indorsements of them received from agricultural, manufacturing, and commercial interests throughout the country, to which the Commission adds:

It is sufficient to say that the existing situation and developments of the past year render more imperative than ever before the necessity for speedy and suitable legislation. We therefore renew the recommendations heretofore made and earnestly urge their early consideration and adoption.

Congress having failed to act upon this recommendation, the Commission in its report for 1900 said:

The requests of the Commission for needful amendments have been supported by petitions and memorials from agricultural, manufacturing, and commercial interests throughout the country, yet not a line of the statute has been changed, and none of the burdensome conditions which called for relief have been removed or modified.

They say further in this report:

With reference to further legislation, the Commission has little to suggest, and nothing new to propose. * * * Recommendations, both general and specific, have been repeatedly made. The views heretofore officially expressed are believed to be justified alike by experience and reflection. They are confirmed by later and current observation.

Congress having failed to act upon this recommendation, in 1901 the Commission, in its report, urges again the amendments previously recommended, and adds:

The reasons for urging these amendments have been carefully explained, and repetition of the arguments at this time can hardly be expected. * * * Knowledge of the present conditions and tendencies increases rather than lessens the necessity of legislative action upon the lines already indicated, and in such other directions as will furnish an adequate and reasonable statute for the regulation of commerce among the several States.

Congress having failed to act upon this recommendation in 1902, after discussing the defects in the law, the Commission in its report for that year said:

The fullest power of correction is placed in the Congress and the exercise of that power is demanded by the highest consideration of public welfare. * * * If the representations already made do not induce favorable action, it is certainly not the fault of the Commission. * * * A sense of the wrongs and injustice which can not be prevented in the present state of the law, as well as the duty enjoined by the act itself, impels the Commission to reaffirm its recommendations, for the reasons so often and so fully set forth in previous reports, and before the Congressional committees.

Mr. President, it is worth while to pause here and note the warning that appeared in this recommendation of the Interstate Commerce Commission to the Congress and to the country, that the railroads *were combining* and the situation was growing more and more serious.

Moreover, in view of the rapid disappearance of railway competition, and the maintenance of rates established by combination, attended as they are by substantial advance in the charges on many articles of household necessity, the Commission regards this matter as increasingly grave, and desires to emphasize its conviction that the safeguards required for the protection of the public will not be provided until the regulating statute is thoroughly revised.

Still Congress failed to act upon these recommendations. It passed the Elkins law to provide against departures from the published rate. But it did nothing to give the Commission power to protect the commerce of the country against repidly advancing rates.

At the beginning of the next session, in December, 1903, after referring to the Elkins law (passed February 19 preceding) at some length in its report, the Commission says:

It (the Elkins law) has added nothing whatever to the power of the Commission to correct a tariff rate which is unreasonably high or which operates with discriminating effect. It greatly aids the observance of tariff charges, but it affords no remedy for those who are injured by such charges, either when they are excessive or when they are inequitably adjusted. If the tariffs, published and filed as the law directs, are enforced against the shippers alike, the authority of the Commission to require such tariffs to be changed remains just as ineffectual as it was before this legislation was enacted. This is the point to which the attention of Congress has been repeatedly called. This is the defect in the regulating statute which demands correction. In previous reports this question has been frequently and fully discussed. We have commented at length upon the weakness and inadequacy of the law as its provisions have been construed by the courts. We have carefully pointed out the amendments which we deem essential, and explained in detail the reasons for our recommendations. We are unable to add anything of value to the presentation heretofore made. Our duty in this regard has been performed.

Attention is again called to the recommendations previously made, and these are reaffirmed. The need of this legislation is said to be all the more imperative as an indirect result of the Elkins law. The Commission says:

The effect of that legislation in many cases was to bring about an increase of railroad charges.

Again in 1904 the Commission reiterated its recommendations and renewed its warning; the previous discussions of the "weakness and inadequacy" of the interstate-commerce law are again recalled, and former "urgent recommendations" are once more cited to the attention of Congress. The enormous advances in freight rates as set forth in the reports for 1902 and 1903 are again cited as additional considerations calling for the enactment of these oft-repeated recommendations.

Congress having failed to act upon these recommendations, at the beginning of the present session in 1905, the Commission said, with respect to the granting of power to fix future rates:

We deem it unnecessary to discuss this question in the present report further than to reaffirm the facts heretofore expressed.

Mr. President, I have quoted from nine annual reports made by this Commission, each clear and explicit in its terms; each portraying the fatal weaknesses of the law; each strongly appealing for amendment to cure the defects. These nine reports have been issued since the decision of the Supreme Court rendered the Commission absolutely powerless to restrain a railway company from demanding and receiving unreasonable and unjust charges. These reports came from a body of men, each of whom the Senate had joined in selecting to administer the law and to recommend needed amendments from time to time. Until a few days ago I never understood why Congress had failed to act upon the important recommendations and the urgent appeals made year after year by the Commission for the repair of this broken-down statute. But it has been made plain at last. It was disclosed during the debate upon the 22d of March, when the Senator from Nevada [Mr. NEWLANDS] propounded the following question to the Senator from Massachusetts [Mr. LODGE]:

Mr. NEWLANDS. I wish to ask the Senator [Mr. LODGE] whether he bears in mind the fact that the original interstate-commerce act calls upon the Interstate Commerce Commission to make recommendations to Congress from time to time in regard to legislation?

Mr. LODGE. I had forgotten that they were called upon to make recommendations to Congress.

Here we have at last a possible explanation for the failure of Congress through all these years to legislate some vitality into the interstate-commerce act. Congress, like the Senator from Massachusetts, must have forgotten that the law required the Commission to make recommendations. It must have forgotten the existence of the Commission. Is it strange that with nine years of failure on the part of Congress to respond to these recommendations the Commission should, through magazines, the press, and the platform, address itself from time to time to the public in an effort to awaken Congress from its deep sleep?

But, sir, even if Senators, and indeed the entire Congress had forgotten that the Commission was required to make recommendations, even though it had forgotten its recommendations, and the very existence of the Commission, there were other reasons why it should have taken action upon this subject.

Soon after the decision of 1897, petitions, memorials, and resolutions, urging Congress to amend the interstate-commerce law and clothe the Commission with power to regulate rates, came pouring in upon the Congress from agricultural, manufacturing, and commercial interests throughout the country. State legislatures from every section of the country solemnly memoralized Congress upon the subject.

THE PRESIDENT URGES CONGRESS TO ACT.

The President of the United States had not forgotten that it was the duty of the Interstate Commerce Commission to recommend legislation. He had not forgotten the purpose of the act of 1887, and in his message to the Congress in December, 1901—away back four years ago—he said:

The cardinal provisions of that act were that railway rates should be just and reasonable and that all shippers, localities, and commodities should be accorded equal treatment.

He had evidently read and reflected upon the important recommendations made year after year by the Commission, for in this same message he said:

This act should be amended. The railway is a public servant. Its rates should be just to and open to all shippers alike. The Government should see to it, that within its jurisdiction, this is so, and should provide a speedy, inexpensive, and effective remedy to that end.

He waited three years for the Congress to act, and then in his message in December, 1904, after a general discussion of the subject, he said:

In my judgment the most important legislative act now needed, as regards the regulation of corporations, is this act to confer upon the Interstate Commerce Commission the power to revise rates and regulations, the revised rate to at once go into effect and stay in effect unless and until the court of review reverses it.

Another year passed by. No law was enacted enlarging the authority of the Commission and conferring upon it power to revise rates and regulations. At the beginning of the present session, December, 1905, the President again reminded Con-

gress of its duty to the public. He presented the relation of the railway problem to the control of transportation, and reiterated the urgency for prompt action in the following words:

As I said in my message of December 6 last, the immediate and most pressing need, so far as legislation is concerned, is the enactment into law of some scheme to secure to the agents of the Government such supervision of the rates charged by the railroads of the country, engaged in interstate traffic, and shall summarily and effectively prevent the imposition of unjust and unreasonable rates. It must include putting a complete stop to rebates in every shape and form.

Mr. President, I believe that the recommendations of the Interstate Commerce Commission should have the greatest weight with Congress, and should be followed in framing a law, unless there are controlling reasons for their rejection.

I believe that the failure to enact into law the recommendations of the Commission made and repeated year after year for a long decade has cost the American people hundreds of millions of dollars in excessive transportation charges, and hundreds of millions of dollars in the increased cost of trust-made articles, the monopoly element of which the railroads have conferred upon the trusts. This increased burden has fallen with the greatest weight upon the humbler homes, where the increased expense of living has made havoc with the savings of the family.

I believe that the recommendations of the Commission enacted into law, together with legislation logically corollary, followed by an appropriation of the money necessary to vigorous enforcement, would have preserved industrial independence for this generation of men.

INDUSTRIAL CONSOLIDATION.

What are the industrial conditions with which the nation is confronted to-day? What are the results of the failure of Congress to act in accordance with its power and its obligation? Great evils grow out of small beginnings. The railroads began by despising their common-law obligations to treat all shippers alike. They despised small traffic transactions. They were bound to have tonnage, more tonnage, bigger tonnage. They openly bought tonnage with rebates. They preferred to transact business with a few large shippers. They drove out the small dealers with advancing rates, forced them into retirement and turned their business over to the trusts.

To this end they were ready to defy State and Federal authority. They recognized one law, a law of their own making—the law of combination. Denied the right to pool by the interstate-commerce act they made traffic agreements to nullify the statute. Denied the right to make traffic agreements by the courts they nullified the decisions by combinations. They absorbed the small companies. They gathered their roads into trunk lines, the trunk lines into systems, the systems into great groups.

In order to convey some idea of the enormous combinations which have been formed in the railway world and of the unlimited power thereby centered in the hands of a few individuals, the following statement is submitted. The figures in this case are mostly taken from Moody's Manual of Railroads, a recognized authority:

The six great groups.

Classification.	Number of roads embraced.	Mileage of each group.	Capitalization of each group.
Vanderbilt group	132	21,888	$1,169,132,132
Pennsylvania group	280	19,300	1,822,402,235
Morgan-Hill group	225	47,206	2,205,116,359
Gould-Rockefeller group	109	28,157	1,368,877,540
Moore-Leeds group	91	25,092	1,059,250,939
Harriman-Kuehn-Loeb group	85	22,943	1,321,243,711
Total	922	164,586	9,006,086,916
Allied systems	250	13,721	380,277,000
Total under control	1,172	178,307	9,386,363,916

We have here nearly 90 per cent of the vital railway mileage of the country controlled by six sets of financiers, with an identity of interest which at will signifies practically a single control. No one can be so blind as not to see the purpose and the certain result of this consolidation. The country has been partitioned and apportioned among these great groups. Each group dominates in its own territory. With agreements as to classifications, rates, and divisions of traffic, the railway business ceased to be a competitive business. It has become a monopoly in fact, controlling the course and destination of transportation and its tolls and charges on all interstate commerce and on all State commerce excepting where interfered with by State control.

The transportation companies built up the great industrial trusts through transportation agreements. Their identification now became more pronounced. They became partners in interest. The railroads acquired ownership in the trusts. The trusts acquired ownership in the railroads. Coal, oil, iron, steel, shipping, telegraph, express, gas, beef, food products, and, indeed, the whole field of industrial production came rapidly into combination and unity of interest. They did not stop here. Banking, insurance, in fact the whole commercial system, was centralized. Less than one hundred men officered, controlled, and directed throughout the entire field. The identity of ownership could be seen in the appearance and reappearance of the same names, some in one group, some in another, massing and knitting together its vast organization. This was the inevitable result of turning over the highways to the common carriers unrestrained. Combination was bound to breed its own kind.

Are special instances required to sustain this conclusion? Is it necessary to review the history of the Standard Oil, coal, iron, beef, the grain, and elevator combines, each represented in railroad ownership? The records of courts, Congressional, and legislative investigation furnish abundant and enduring testimony of their crimes against the American people. They stand out against the dark background of thirty years of railroad history a menace and a reproach to government. They are but types of a whole army of railroad-made and railroad-fostered trusts.

Because of recent disclosures the sugar trust is of interest at this time, and furnishes a conspicuous example, illustrating the relation of the trust to railroad transportation.

Mr. John Moody, of New York City, recognized as an authority by those trading in trust and railroad stocks and securities, two years ago classified the trusts of the country as follows: The greater industrial trusts, the lesser industrial trusts, the franchise trusts, and the great railway groups.

The greater and lesser industrial trusts, comprising the most important industrial trusts in the United States, two years ago numbered 318 separate trust organizations, representing the consolidation of 5,288 plants or manufacturing establishments, with a total stock and bond issue of $7,246,342,533. These consolidations dominate practically every field of industrial enterprise in the United States, from the manufacture of railroad locomotives and pressed-steel cars to matches and chewing gum. Of the greater industrial trusts, all have been organized or reorganized since April 1, 1890. With the exception of the sugar trust, all were incorporated in the State of New Jersey.

The sugar trust was incorporated in its present form in 1901. It has acquired ownership or control of 55 corporations, representing 70 to 90 per cent of the entire sugar-refining industry of this country. The element of monopoly in this organization is very powerful, consisting of tariff benefits and practical control of the sources of raw material. It is capitalized at $145,000,000. Although this is vastly more than the investment represented, its virtual control of the market enables the trust to earn dividends averaging about 12 per cent on its capitalization. For fifteen years since it was organized the sugar trust has paid dividends ranging from 7 to 12½ per cent. The dividends actually earned during these years have been much higher than this, but the management have latterly adopted the policy of paying directly as dividends a modest 7 per cent. This course was prompted by the fear that the public patience would not endure the high prices on sugar necessary to pay the extravagant dividends which are actually being exacted from consumers upon the millions of dollars of watered stock in the trust.

Protected by the tariff from competition with foreign refineries the sugar trust is placed in a position of immense commercial advantage. With the aid of the transportation lines it is invested with an absolute monopoly, enabling it to control the prices upon this article of daily use in every home and tax every table at will.

On the 7th of February, 1906, Congressman WILLIAM R. HEARST submitted to the Department of Justice of the Federal Government sworn complaints charging a compact between the sugar trust and officers of the Pennsylvania, New York Central, the Delaware, Lacawanna and Western, the Philadelphia and Reading, the New York, New Haven and Hartford and several other railroad companies. Mr. HEARST has placed in the hands of the Attorney-General such an array of facts in support of his complaints that the Government has asked for the indictment of the head of the sugar trust and some of the most prominent railroad officials controlling nearly all of the trunk lines east of the Mississippi River.

In the case of the United States *v.* Armour & Co. et al.,

lately tried before Judge Humphrey at Chicago, Attorney-General Moody, in the course of his argument, said:

Not long ago the enterprise of the proprietor of one of the New York papers discovered much information which tended to show that all the great trunk lines running out of New York City had been practicing discrimination in the form of rebates to the American Sugar Refining Company. With what I believe was rare self-denial and a high sense of public duty that evidence was offered to the Department of Justice. Out of it charges have grown against the railroads and against the sugar company, and they are now under consideration by the grand jury. I express no opinion whether the charges are true or false, there are ways of deciding that question when the time shall come. These rebates, amounting in the aggregate to hundreds of thousands of dollars, have been often given to the sugar company to aid it in its fight with the farmers who are conducting the struggling industry of producing sugar from beets. When the sugar company wanted to overcome the competition of the farmer, wanted to lay such stress upon him that he would give up the contest in despair and dispose of his property to the monopoly, it went to the railroads and borrowed a club by which it clubbed the farmer to death.

Let it not be supposed for one moment that the payment of rebates imposes any burden upon the railroad company. Whatever sums of money are necessary to enable the sugar trust to maintain its advantage over competitors and to aid in paying extravagant dividends costs the railroad company nothing. It is all taken out of the consumers and enough more with it to swell railroad surplus and pay profits on its inflated capitalization as well. For proof of this turn to the rate schedules of the railroad companies, and it will be found that they have increased transportation charges upon this article of prime necessity more than five and one-half million dollars since 1897.

Again and again the Interstate Commerce Commission, in their reports to Congress, called attention in unmistakable language to existing conditions and their helplessness under the law as construed by the court.

I quote the following from the report of the Commission of 1899:

It is a matter of common knowledge that vast schemes of railway control are now in process of consummation and that competition of rival lines is to be restrained by these combinations. * * * If the plans already foreshadowed are brought to effective results and others of similar scope are carried to execution, there will be a vast centralization of railroad properties, with all the power involved in such far-reaching combinations yet uncontrolled by any public authority which can be efficiently exerted. The restraints of competition upon excessive and unjust rates in this way are avoided, and whatever evils may result will be remediless under existing laws.

In its report for 1900 the Commission says:

One of the striking features of recent times in the industrial world has been the tendency to combine for the purpose of limiting or eliminating competition. In no branch of industry probably is the inducement to promote combinations of this sort greater nor the advantage to be hoped for from them more certain than in railway operations. * * * We should, however, hardly discharge our duty in a report to Congress upon the railway operations of this country if we did not call attention to these combinations and the effect which they are likely to produce.

In January, 1901, the Commission said in its report to Congress:

More instructive than any argument are the results of an investigation just made at Chicago into the movement of packing-house products, a more detailed account of which hereafter appears. The facts developed upon that investigation, and upon a previous investigation into the movement of grain and grain products, which is also referred to later, are of such a character that no thoughtful person can contemplate them with indifference. That the leading traffic officials of many of the principal railway lines, men occupying high positions and charged with the most important duties, should deliberately violate the statute law of the land, and in some cases agree with each other to do so; that it should be thought by them necessary to destroy vouchers and to so manipulate bookkeeping as to obliterate evidence of the transactions; that hundreds of thousands of dollars should be paid in unlawful rebates to a few great packing houses; that the business of railroad transportation, the most important but one in the country to-day, paying the highest salaries and holding out to young men the greatest inducements, should to such an extent be conducted in open disregard of law, must be surprising and offensive to all right-minded persons. Equally startling at least is the fact that the owners of these packing houses, men whose names are known throughout the commercial world, should seemingly be eager to augment their gains with the enormous amounts of these rebates which they receive in plain defiance of a Federal statute. These facts carry their own comment, and nothing said by us can add to their significance.

* * * * * * *

The effect is to give these large packers an enormous advantage over their small competitors. * * * Already these competitors have, in the main, ceased to exist.

We find in these disclosures a pregnant illustration of the manner in which secret concessions are tending to build up great trusts and monopolies at the expense of the small, independent operator.

In 1902 the Commission said in its report to Congress:

The tendency to combine continues to be the most significant feature of railway development. The facts in this regard are matters of common knowledge, and little is gained by the mention of particular instances. * * * A law which might have answered the purpose when competition was relied upon to secure reasonable rates is demonstrably inadequate when that competition is displaced by the most far-reaching and powerful combinations. So great a change in conditions calls for corresponding change in the regulating statute.

THE HEPBURN-DOLLIVER BILL.

And so, Mr. President, after all these years of legislative delay demoralizing private business and imposing grievous burdens upon the country, we are at last offered the Hepburn-Dolliver bill. Does it meet the requirements of the country's commerce? Does it promise a remedy? Let us examine its provisions.

Mr. President, this bill will not solve the transportation problem. Unless greatly strengthened, it will not meet the expectations of the country. It will not dispose of the question.

Why should we temporize? Why should we approach this subject on tiptoe, with apology to special interests and apostrophe to property rights? Honest wealth needs no guaranty of security in this country. Property rightfully acquired does not beget fear—it fosters independence, confidence, courage. Property which is the fruit of plunder feels insecure. It is timid. It is quick to cry for help. It is ever proclaiming the sacredness of vested rights. The thief can have no vested rights in stolen property. I resent the assumption that the great wealth of this country is only safe when the millionaires are on guard. Property rights are not the special charge of the owners of great fortune. Even the poor may be relied upon to protect property. They have so little—the little they possess is so precious—that they are easily enlisted to defend the rights of property.

No one here need offer himself as a martyr to protect the property of railway corporations against the results of popular clamor. Property rights are safe. The ample power of the Constitution is the everlasting bulwark of property rights. We can do nothing if we would to put the property of any corporation in the slightest jeopardy. We shall do well indeed if we prevent the railway company from wronging the citizen. If we will use all the power we have under the Constitution, we may compel the carrier to desist from acts which encroach upon the rights of the citizen and community. We shall not be able to do more than that. We ought to be willing to do that much.

Thirty years of experience, thirty years of struggle for legislation, thirty years of judicial decision plead with us, and yet we make no advance. The committees of Congress spend a decade listening to appeals, filing away petitions, taking testimony, hearing arguments, traveling over the same ground session after session. In the meantime individuals are wronged by extortionate rates and their business handed over to monopolies enjoying the favor of the railroads. Towns and cities, with natural advantages and locations to make them commercial centers, are discriminated against to build up great markets and railway terminals at the end of the long haul.

Men have grown gray in this protracted struggle to free the commercial highways from tyranny and bring the railroads of the country back to their legitimate business as common carriers. Weary and heartsore they accept this bill, not because it is fair and just and goes to the core of the trouble, but, as they declare, "Because it is all we can get now. It is as far as Congress will go."

I think it is demonstrated that every man charged with any official responsibility with respect to this legislation owes it as a public duty to go to the limit of constitutional power in clothing the Government with authority to regulate railway rates and railway services.

Mr. President, the bill before the Senate does not measure the importance of the subject to which it relates. The junior Senator from Iowa, whose share in the framing of this bill authorizes him to speak for its scope, directed attention in his eloquent address to "the three conspicuous propositions with which this measure is concerned."

First. Broadening the meaning of the word "transportation" to include independent car lines and refrigerator companies "by requiring that every charge incident to the service shall be reckoned as a part of the public rate."

Second. By authorizing the Commission "where complaint is made that a rate is unreasonable or unduly preferential to require the carrier to observe as a maximum in such a case the rate which, in its judgment, is in conformity with law."

Third. Requiring "a detailed report of the business of the railways compelling common carriers engaged in interstate commerce to conform their systems of accounts to the regulations made by the Commission and to keep them open to reasonable inspection under public authority."

Excepting, then, as this bill provides for the new device of the private car and refrigerator companies, it goes no further than to patch up the rents made by judicial decision and clarify and strengthen the section relating to the keeping of railway accounts, and reporting thereon. Hence it may be said that this bill is a measure to correct the blunders of 1887.

Sir, it took thirteen long years of persistent and earnest effort to enact the statute of 1887. It is nine years since judicial decision took from that statute every element of protection which it had afforded the commerce of the country. The bill

before us offers no more in fact—indeed less than did the McCrary bill, the first measure which passed the House of Representatives for the regulation of interstate commerce in 1874.

We have made some progress: We better comprehend now the consequences of handing over the commerce of the country to the control of railway corporations than we did then. It is for this reason, I repeat, that this bill does not measure the importance of the subject to which it relates. The lesson which we have learned in the last generation of time is that the control of transportation is the control of commerce; that the control of commerce is the control of the commercial and industrial life of the American people; that the control of the commercial and industrial life of the American people is the control of their commercial and industrial freedom; that the control of their commercial and industrial freedom is the control of their political freedom; that this question, in its final analysis, goes to the integrity of our free institutions.

I do not disparage this bill in its present form. I credit it with everything it can accomplish. It is fair to say that it will aid directly and indirectly to equalize rates; that it will afford opportunity for associations and municipal organizations representing communities where rates are higher than more favored localities to apply, on that ground, for relief. This will, in a limited way, result in some reductions. I say in a limited way, because only the larger, wealthier, more enterprising and aggressive communities will be represented by active organizations with the courage and the means to make a fight against the railroads for better rates. It will be further limited by the fundamental defect in the plan which provides no way of ascertaining the reasonable rate, but only the comparatively reasonable rate, as I shall presently show.

But beyond this the larger shippers will derive the principal benefit from the bill if it is enacted in its present form. As a class they are mainly interested in equal rates for all shippers within the zone of competition. They are quite indifferent as to the amount of the rate, because in the end they do not pay it. While their complaints would undoubtedly result in some incidental reductions, they will not be filed with the Commission primarily for that purpose.

I protest that this is not a bill for the great body of the American people who constitute the consumers of the country. They do not buy freight of the railway companies at all. It has been suggested that the railroads have good cause to resent the designation of their charges as taxes upon the people. But they are taxes.

There are just and unjust taxes. Any excessive charges for the transportation of the necessaries of life should be as carefully guarded against as unjust taxes for sustaining government. The Government is as truly obligated to protect the people from unjust freight charges as it is from unjust taxes to sustain the Government. Consumers do not deal directly with the carrier, and yet they pay practically all of the fifteen hundred millions collected by the railway companies annually for carrying the freight of the country. They pay this freight when they buy coal, lumber, clothing, and other supplies of the local dealer and merchant. The consumer does not know how much of the cost is a freight charge. He does know that prices are steadily advancing. He feels the increasing burden. He is certain that some one is wronging him. He believes that the railroads are directly responsible for a part of it and indirectly responsible for all of it. He wants relief. What does this bill do for him?

He can not make complaint in his own behalf. He has not the detailed knowledge upon which to base such complaint. The items of overcharge, if he could specify them, are small, but in the aggregate they are important to him. He could not afford to institute proceedings for reduction if he were able to formulate the specific allegations of a complaint.

If the legislation enacted at this session is to go no further than an endeavor to secure equal rates and not reasonable rates, then it ought to be so framed that there is some one upon whom rests an official obligation to act for the helpless consumer, for the millions who pay the freight. We should at least make an effort to secure equal rates for them until such time as we may secure reasonable rates for all.

So long as the Commission, under the law of 1887, exercised the power of enforcing orders with respect to rates, which the railroads and the public understood the law conferred upon them, they issued and enforced such orders on investigations instituted upon complaints filed with them, *and likewise upon investigations instituted upon their own motion.* One of the most important cases ever decided by the Commission, resulting in a reduction of rates upon foodstuffs, was upon an investigation prosecuted by the Commission upon its own motion.

This bill limits the Commission's authority to make a determination and issue an order *to cases upon complaint.*

Section 13 of the law of 1887 authorizes the Commission to institute an inquiry upon its own motion. This bill allows that to stand, but in section 15, as proposed to be amended by this bill, it does not authorize the Commission to make a determination and issue an order upon an investigation which it has conducted upon its own motion under authority of section 13. If it is wise to continue the authority of the Commission to make investigation, why is it deemed advisable to withhold from it the power to remedy any wrong disclosed by such investigation?

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Iowa?

Mr. LA FOLLETTE. Certainly.

Mr. DOLLIVER. Consultation with the members of the Interstate Commerce Commission has led me to believe that with their power of investigating general rate conditions throughout the country, if they discover an abuse they will be under no inconvenience whatever under the provisions of section 15 in founding a proper complaint.

Mr. LA FOLLETTE. Mr. President, I noticed in the discussion in the House of Representatives that the member from one of the Maine districts raised that question and objected that there were provisions in this bill which might be so construed as to allow the Commission to issue an order upon the investigation which it had made on its own motion under section 13. I observed that a member of the House committee which framed the bill promptly declared that such construction could not be given to it.

Mr. DOLLIVER. I think the Senator from Wisconsin will agree with me that if we can secure an adjudication of every complaint that may be filed, we will have gone a long way toward curing, or at least securing jurisdiction of, most railroad abuses.

Mr. LA FOLLETTE. I am sorry to disagree with my friend the Senator from Iowa. I think we shall have gone only a *very little* way. Under the provisions of this bill I do not think we will go to the heart of this problem at all. I believe I shall be able to make this very clear, if Senators have the patience to hear me to the end.

If consumers are to be greatly benefited by securing even relatively reasonable rates, it would seem very clear that either the Commission should be authorized to act upon its own motion or the Government should provide some agency authorized to make preliminary investigation into the wrongs suffered by the consumers, file complaints, and prosecute the same before the Commission. Some communities and rural sections might, thus aided, secure at least a moiety of relief.

The whole history of this struggle for legislation, reaching back more than a score of years, reveals the fact that those who are strong through the power of organization and wealth fare the best.

Mr. President, it is on this broad ground of a just protection of public interest that the proposed bill seems to me narrow and far below the level demanded by experienced and enlightened public judgment. It is only designed to be amendatory of the law passed twenty years ago. In some respects it is less effective than the original law was believed to be by those who enacted it—by the public and railroad companies as well.

I will say, however, that in its amendments to section 20, with respect to the publicity of railroad accounts, I entirely and unreservedly commend it. It contains excellent provisions for the inspecting of railway accounts and for greater publicity concerning them. But, excepting as to private car companies and a limited provision with respect to relative rates and orders, it ignores the lessons of experience and fails to recognize the existing commercial and industrial conditions. It stands and "marks time" on the old camp ground of twenty years ago.

Sir, the bill takes little heed of the recommendations of the Interstate Commerce Commission to be found recorded in their annual reports to Congress. These recommendations are the result of nearly twenty years of accumulated wisdom in testing the law through administration. They should constitute the most valuable contribution to an intelligent solution of the great problem with which we have to deal.

RECOMMENDATION OF COMMISSION FOR LEGISLATION NOT PROVIDED FOR IN THE PENDING BILL.

I will present some of the more important recommendations for which this bill fails to make provision. I indulge the hope that the imperfections of the bill will be cured by amendment before it passes the Senate.

1. VALUATION OF RAILWAY PROPERTY.

The interstate-commerce law declares all unreasonable rates unlawful. The Supreme Court declares reasonable rates to be

such rates as shall afford just compensation to the carrier for the services performed. The Supreme Court has likewise held that "just compensation" is a *fair return* on the *fair value* of the railroad property.

The Commission has declared that—

No tribunal upon which the duty may be imposed, whether legislative, administrative, or judicial, can pass a satisfactory judgment upon the reasonableness of railway rates without taking into account the value of railroad property.

In its report for 1903 the Commission recommended Congress to authorize such a valuation to be made, and made an elaborate argument in support of such recommendation.

No such legislation has been enacted by Congress.

This bill makes no provision authorizing the Commission to ascertain the value of railroad property.

I shall endeavor to discuss this most important branch of the subject with some thoroughness before I conclude.

2. THE POWER TO REVISE AND FIX RATES, FARES, AND CHARGES.

The Commission has recommended year after year that it is necessary to the protection of the public that authority be conferred upon the Commission, acting either upon its own motion or upon complaint, to issue, and to enforce an order changing any rates, fares, or charges alleged to be unreasonable or otherwise unlawful after due notice and full hearing, upon a determination by the Commission that the rates, fares, and charges are unreasonable or otherwise unlawful.

The Commission informed Congress that these powers are "positively essential;" that until conferred upon the Commission its "best efforts at regulation must be feeble and disappointing;" that "knowledge of present conditions and tendencies increases rather than lessens the necessity for legislative action upon the lines indicated."

The pending bill does not confer upon the Commission the broad powers to revise rates, fares, and charges upon its own motion, or to fix absolute rates, fares, and charges under any circumstances whatever.

3. THE RELATION OF RATES.

For years extended discussions have been presented to Congress showing the necessity of considering the relation of rates in determining with respect to specific complaints. The reports are full of cases showing how vital this consideration is in the administration of justice.

The Commission has presented with great clearness and power its recommendations that this authority should be reposed in the Commission. Indeed, it is difficult to see how it can proceed to discharge the duties of its high office and dispense any measure of justice under the limitations of the proposed bill, which confers no power upon the Commission to issue orders upon its own motion, unless Congress shall vest it with full authority to pass upon the relation of rates.

This bill makes no provision granting such authority to the Commission.

4. THE CONTROL OF CLASSIFICATION.

The foundation of all rate making lies in classification. Sweeping changes are effected by a single order in classification, which the railroads make from time to time. The Commission has brought to the attention of Congress the fact that "many advances have been brought about by changes in classifications."

Changing the classification of an article of freight changes all the rates under which that article shall be shipped throughout the country. It is *wholesale* rate making. By comparison the powers proposed by this bill to be conferred on the Commission are only powers of *retail rate revision* to be exercised only on complaint and on the basis of comparisons with other rates fixed by the railroads.

The Commission has repeatedly recommended that when classifications are filed which the Commission find on investigation and full hearing to be unreasonable, it shall determine what shall be a reasonable classification and prescribe the same, and shall order the carrier or carriers to file and publish, on or before a certain day, schedules in accordance with the decision of the Commission, subject to right of review thereon; that when such classification shall be so established it shall not be departed from without the consent of the Commission upon application of the carrier after due notice and full hearing.

This bill makes no provision conferring such authority upon the Commission.

5. THE POWER TO FIX A MINIMUM RATE.

During the ten years that the Commission exercised their supposed power with respect to rates they found that great injustice resulted in many cases because the railroad companies would readjust rates for competing towns to a common market, so as to defeat the orders of the Commission in securing to a city or community a reasonable opportunity to compete in such common market.

This defect in the law was many times reported to Congress by the Commission and numerous cases cited in support of a recommendation that the Commission be given authority to fix a minimum rate.

This bill makes no provision to correct the law in this important respect.

6. LONG AND SHORT HAUL DISCRIMINATIONS IGNORED.

The long and short haul clause of the act of 1887 was designed to prevent a common form of most oppressive and unwarranted discriminations between places. The court has decided that this clause does not apply when the conditions are not alike at both points between which the discriminations exist. In practice there are no points at which conditions are alike. It lies in the power of the roads to make the conditions dissimilar whenever it suits their purposes. As a result this provision is without effect, and there is no authority in the Commission to prevent any such unwarranted discriminations. Such discriminations prevail generally throughout all sections of the country.

Under the basing-point system a rate to a given point is computed by adding to the rate from the point of origin to the basing point the local rate from the basing point to the point of destination, or an arbitrary amount or a percentage of the rate to the basing point. This is done for *points between the point of origin and the basing point*, thus making the rate to such points higher than the rate to the basing point beyond. For example, rates on some commodities from New York to Salt Lake are more than twice as high as to San Francisco, a thousand miles farther and over the same line. From New Orleans to Charlotte, N. C., the rates are twice as high as to Virginia cities twice as far distant, the Virginia traffic passing through Charlotte. Most absurd discriminations of this sort prevail against Danville, Va. Shippers in western Wisconsin wishing to ship grain and live stock to Chicago are actually forced, to get the best rates, to ship west to St. Paul and then reship to Chicago, the return shipment passing through the town from which it started.

The Commission has called attention to the defect in the law which permits these unwarranted discriminations. It has recommended that it be given the power to determine what conditions are dissimilar and what discriminations are warranted.

The proposed bill ignores these recommendations and the necessity of their enactment into law. It does worse than that; it reenacts the bad provisions of the old law.

7. THE TRICK OF WITHHOLDING TESTIMONY.

It is a fact that railway companies have withheld important testimony upon the hearings before the Commission; that they have subsequently offered the testimony on the trial before the court, and have thereby succeeded in reversing and discrediting the Commission and in delaying the administration of justice; that this practice has been so prevalent as to call forth rebuke upon the railroad companies from the Supreme Court.

The Commission has reported these facts to Congress and recommended that legislation be enacted to correct this abuse.

This bill makes no provision to prevent the continuance of this wrongful practice on the part of the railway companies.

8. IMPRISONMENT FOR VIOLATIONS OF LAW.

The Commission advised against exempting railroad officers and agents from imprisonment for violating the law. The railroads advised Congress to amend the law and grant immunity from imprisonment. Congress adopted the recommendations of the railroads and passed the Elkins law, exempting railroad officers and agents from imprisonment for violations.

In its report the Commission calls attention to violations of the Elkins law, and states that such violations are "liable to increase unless effectively restrained."

This bill contains no provision restoring the penalty of imprisonment and offers no remedy to "effectively restrain" such violations.

9. THE KILLED AND INJURED EMPLOYEES AND PASSENGERS.

For the fiscal year ending June 30, 1905, the railroads killed and injured 10,617 passengers and 48,487 employees. The list of killed and injured of both passengers and employees has steadily increased from year to year. The record is an appalling one.

We annually kill relatively three times and injure twenty-five times as many railway employees, and kill relatively six and one-half times and injure twenty-nine times as many passengers as do the Prussian railroads.

Day after day we place those who are dearer to us than life in the safekeeping of the men who run the railroad trains of the country. Patient, courteous, watchful, brave—there are no stronger, finer types of character and courage in American life. Out on the "iron trail" these men grimly meet death, day and

night, to save the trainload of humanity in their charge. The gruesome list of fatalities reveals the startling fact that more than one engineer out of every four dies upon his engine, his hand gripping throttle and lever.

For seven years the trainmen of America have maintained a representative here to plead for legislation, giving a little measure of justice to their families, when the dark hour comes, for which they ever wait with dread anxiety. For seven years their bills have died in the committee rooms of Congress.

The Interstate Commerce Commission has each year urged legislation to reduce the long and increasing roll of this awful slaughter of employees and passengers.

This bill makes no provision for the adoption of the block system, or other well approved safety appliances, or for any other progressive legislation, for the preservation of life.

OTHER CHANGES DEMANDED BY EXPERIENCE AND PUBLIC INTEREST—THE INIQUITY OF THE FREE PASS.

The interstate-commerce law prohibited discriminations and made the issue and use of railroad passes unlawful. The law was weak and inefficient. It was evaded for a time and then openly violated. This vicious and insidious form of influencing public sentiment and official action has been widely prevalent for years. A prominent and experienced railroad auditor has stated that 10 per cent of all railroad travel in this country is upon free transportation. Those who pay to ride must bear the burden of this free transportation, amounting to over $50,000,000 annually.

The free pass is furnished to public officers to influence official action. It may be accepted innocently, but, consciously or unconsciously, it colors judgment and ultimately and finally controls action.

No legislative body can act impartially upon any measure involving contention between the railroads and the public when such legislators accept and use free transportation furnished by the railway companies.

The late Collis P. Huntington spoke out of an abundant experience when he said of an official who was looking after legislation at the national capital that the gentleman had "many advantages with his railroads running out from Washington in almost every direction, on which he gives free passes to everyone whom he thinks can help him ever so little."

Mr. Paul Morton says: "Passes are given for many reasons, almost all of which are bad."

President Stickney, of the Chicago Great Western Railroad, said, in an address given in 1905 in this city, speaking of the provision of the interstate-commerce law against the use of free passes, that "Congressmen and Presidents, with rare exceptions, have ignored its provisions."

Whatever individual opinion may be entertained by Senators and Representatives upon this subject, the odium of violating laws which Congress has enacted ought in itself be sufficient to pass and enforce the most drastic legislation which can be framed, making it an offense punishable by imprisonment for anyone, be he public official or private citizen, to accept or use free transportation in any form.

EXPRESS COMPANIES NOT INCLUDED.

Every consideration that demands government regulation of the services and rates of railroad corporations demands the same regulation of the services and rates of express companies.

The bill should be amended as to clearly include express companies. The hearings before the Interstate Commerce Committee clearly established that there is just ground of complaint of these companies and need of effective regulations both as to services rendered and the rates charged.

"FAIRLY REMUNERATIVE."

The common carrier is entitled to make a just compensation. Just compensation is defined by the courts to be that compensation which will afford the carrier a fair return upon a fair value of its property. Again and again it has been held that a rate which does not afford just compensation is not a just and reasonable rate. The phrase "just and reasonable" has a clear and well defined meaning in the law. It measures what the public must pay. It measures all that the carrier is entitled to receive.

But the pending bill introduces a new qualifying term by which the carrier's rate is to be measured. The words "fairly remunerative" are added. What office are they to serve? For what purpose are they introduced? Are they to add something to the rate? If that is the purpose, they should be stricken from the bill. The carrier is entitled to nothing more than a just and reasonable rate. If the words "and fairly remunerative" are not designed to increase the rate, then they serve no purpose and should go out. These words introduce another element over which there will be controversy in the courts. The words will require judicial construction. For every reason they should be omitted.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Iowa?

Mr. LA FOLLETTE. Certainly.

Mr. DOLLIVER. Mr. President, I wish to say that those words were suggested to the Senate Interstate Commerce Committee by the Interstate Commerce Commission in the bill which they framed and forwarded to us. For myself I think I ought to say that they are after mature deliberation omitted from the bill which I had the honor to introduce.

Mr. LA FOLLETTE. I am glad to learn that the Senator is not personally in favor of incorporating into the bill the added words.

Mr. President, perhaps I ought to say, with reference to the recommendation of the Interstate Commerce Commission at this session of Congress, as indicated and limited by the draft of a bill which was printed as coming from them, that I concede freely that it omits many of the recommendations which they have made year after year for a decade as being vital to the protection of the interstate commerce of this country.

I know that back of that change and other changes in their recommendations there is a world of significance. Since 1897 they have submitted their reports to Congress, always urging the same legislation as vitally necessary. They have appeared personally before the committees of Congress, arguing and pleading to have their recommendations enacted into law. If at last they have been driven to believe that they must take this bill or nothing, that they must take but a little fraction of that which is really essential to protect the people of this country against extortion and abuse, it does not annul, contradict, or overturn the recommendations which they have incorporated year after year for ten long years in their reports and urged in person upon the committees at every opportunity. I could say much more with respect to this matter. It is not necessary to do so at this time.

Attention is called to other changes that seem worthy of consideration when the bill is taken up in detail.

The bill, in extending the time for notice of changes in rates, provides that the carrier making such notice shall give "public notice." The word "public" would seem indefinite. Provision for notice to the Commission is not provided. In extending the time for notice of changes in rates in joint tariffs "public" is omitted and notice to the Commission is provided. It would seem that in both cases public notice and notice to the Commission should be required and the manner of public notice specified.

To empower the Commission to issue orders after full hearing and investigation upon its own motion, the words "upon complaint" should be omitted in the amendment to section 15. The scope of such orders should include all classifications and regulations affecting rates and services.

Likewise the Commission should be empowered, when any rate or classification has been found unreasonable or unjust, to substitute maximum, minimum, or absolute rates, or to substitute such other classification or regulation as shall be necessary to secure just rates and regulation in conformity with the requirements of the law.

In the amendment proposed to section 16 it provided that when "upon such hearing as the court may determine to be necessary, it appears that the order was regularly made and duly served," the court shall enforce obedience to such order. This provision may be construed as limiting the court to consideration of the *regularity of making* and *serving the order*, and to exclude consideration of the question whether the order is confiscatory. Any doubt with respect to this provision can be remedied by inserting after the word "served" the words "*and not in violation of any of the constitutional rights of the carrier.*"

In addition to the specific enumerations in the bill, the report should show separately the receipts from and the operating expenses for interstate and State traffic. The report should show, in such detail as the Commission may direct, the amount and character of the freight and passenger traffic, and the hours of labor of all employees, and to what degree certain classes of employees are required to be on duty continuously for such length of time as may jeopardize the public safety.

Friday, April 20, 1906.

Mr. LA FOLLETTE. Mr. President, when I concluded, late in the session yesterday, I was discussing certain features of this bill which seemed to me very defective, and I wish briefly at the outset this morning to review the propositions covered in what I said yesterday.

I had considered what I conceived to be unsound constitutional arguments. I had discussed what seemed to me to be unsound propositions which would limit the right of Government to base its control of transportation upon franchises issued by the sovereign power. I had discussed the broad court review and preliminary injunction. I had called attention to the history of the movement which culminated in the passage of the act of 1887. I presented for consideration the weakness and lack of vitality of that statute, and the urgent need of its amendment.

Following that, Mr. President, I traced briefly the development of industrial combination in this country and showed, as I believe logically, its relation to transportation. I think it was made plain that all of the industrial and commercial centralization of this country is closely related to the transportation problem. I submitted the recommendations and arguments of the Interstate Commerce Commission which it had presented to Congress session after session to secure legislation to control transportation charges and regulate service, to the end that industrial and commercial monopoly should no longer be fostered by especially favored transportation rates and regulations. I believe it was made clear that the country had suffered greatly because Congress had failed to respond to the recommendations made by the Interstate Commerce Commission with respect to the constantly increasing power of monopoly through railway concessions and privileges.

And then, Mr. President, coming down to what we are trying to do here to-day, I had begun to suggest the particular respects in which the pending bill fails to meet the recommendations of the Commission and the urgent needs of the commercial and industrial interests of the country.

I called attention to the fact that the Commission had recommended the valuation of railroad properties, and that this bill does not provide for it; that they had recommended the power to revise and fix rates and fares and charges upon their own motion, and that this bill does not provide for it; that they had recommended and had cited many cases showing the absolute necessity of conferring upon the Commission power to control the relation of rates, and that this bill does not provide for it; that they had made plain to the Congress and to the country the importance of giving the Commission authority over classification, and that this bill does not provide for it; that they had cited innumerable instances where it was important to the administration of justice with respect to the commerce of the country that they should have authority to fix minimum rates or an absolute rate, and that this bill does not provide for it; that they had pointed out the ability of the railroads of this country to nullify that section of the statute of 1887 with respect to the long and short haul clause, and that this bill does not in the least strengthen it.

Mr. President, in the course of this discussion the Commission has been much criticised because so many of its decisions have been reversed in the courts. The true reason for these reversals may be found in the annual reports of the Commission to Congress. Attention has again and again been directed to the fact that the railroad companies withheld testimony upon the trial of the case before the Commission and then introduced it when it came to a trial of the case before the court. Upon this new evidence the court often reversed the Commission. The railroads were thus enabled to embarrass the Commission and delay the administration of justice under this law. These reversals have often been cited on the floor of both Houses of Congress as showing the incompetence of the Commission. Yet the reports of the Commission to Congress have recommended that the law be so amended as to prevent this practice. This bill does not contain any such amendment.

Then, Mr. President, I called attention to the fact that the Interstate Commerce Commission had questioned whether great injury would not result from so amending the law that no imprisonment should be imposed as a penalty for its violation; but that the railroad companies had for years pleaded before the committees here in Congress that imprisonment as a punishment for violation of the law might be abrogated. The Commission, in its reports and before the committees of Congress, gave admonition and warning that such amendment would in all human probability result in opening the doors wide for violation of the law. But Congress heeded the insistence of the railroad companies that imprisonment for violation of law should be abrogated, and the Elkins law was passed.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. LA FOLLETTE. I do, sir.

Mr. FORAKER. I understand the Senator from Wisconsin to be saying that the provision of law abrogating imprisonment for violation of the interstate-commerce act was contrary to the recommendation of the Interstate Commerce Commission. Am I correct?

Mr. LA FOLLETTE. I say this: After long years of pleading with the Committees on Interstate Commerce of both Houses, the Interstate Commerce Commission has been pushed from position to position with respect to its recommendations.

Mr. FORAKER. Mr. President——

Mr. LA FOLLETTE. Wait a moment. I say that finally, after warning Congress that the abrogation of punishment by imprisonment would, in its judgment, be a dangerous thing, the Commission finally said if, in the opinion of Congress, it is deemed advisable—I am not quoting the exact words of the Commission, of course—we yield that point. I say that means this, and this only: The Commission has been pushed by the attitude of the committees of Congress from pillar to post, and that finally, in its extremis, it was ready to accept almost any legislation which it could get, provided it contained some provisions that would tighten up and make more stringent certain of the sections with respect to violations of the law.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield further to the Senator from Ohio?

Mr. LA FOLLETTE. I do.

Mr. FORAKER. The Senator well said that he was not quoting the exact language of the Interstate Commerce Commission in what he has just now set forth. The fact is, as anyone can ascertain by reference to the official reports of the Interstate Commerce Commission, that repeatedly prior to the act of February, 1903, known as the "Elkins law," the Commission recommended that the law be so changed as to do away with imprisonment for offenses against it. In their seventeenth annual report, which was the first report after that law had been enacted, they dwell upon that and call attention to the fact that the change in the law was in accordance with their recommendation, made repeatedly on their own motion, without any desire on the part of anybody, so far as I am aware, that they should make it, and they speak of that provision of the law as one of its exceptionally good features.

Now, I do not want to interrupt the Senator from Wisconsin while he is in the midst of his argument——

Mr. LA FOLLETTE. It is all right.

Mr. FORAKER. But if he will allow me to do so, for I am sure he does not want to misrepresent the attitude of the Commission on that subject——

Mr. LA FOLLETTE. Oh, no.

Mr. FORAKER. I will ask that the Secretary read what the Commission said about the Elkins law in their report of December 15, 1903.

Mr. LA FOLLETTE. I think I incorporate that a little bit later in what I have to say.

Mr. FORAKER. If the Senator objects to this——

Mr. LA FOLLETTE. And I do not care to have it injected into the speech at this point.

Mr. FORAKER. Well, I should not think the Senator would care to have incorporated in his speech what the Commission have set forth.

Mr. LA FOLLETTE. Let me say to the Senator from Ohio that I am willing to have embraced in the RECORD here everything that bears pertinently upon this discussion. I shrink from nothing that hews to the line, sir.

Mr. FORAKER. Of course the Senator does not, but if the Senator does not desire to have the whole of this incorporated, will he object——

Mr. LA FOLLETTE. I do not know how much the Senator proposes to send up. He says if I object to the whole of it. If he proposes to send up the whole volume which he has in his hand, I do object to having it injected into the middle of my speech.

Mr. FORAKER. I am asking the Senator whether he has any objection to my reading from the official report of the Interstate Commerce Commission what they say upon that particular charge that he has been dwelling upon?

Mr. LA FOLLETTE. I call particular attention in what I have prepared to say here, to exactly what the Interstate Commerce Commission has recommended with respect to that proposition. Therefore I choose to have it come in regular order and in its proper relation to this whole subject.

The VICE-PRESIDENT. The Senator from Wisconsin objects to the reading of the report.

Mr. FORAKER. I do not want to read all of the report. I would not trespass unduly on the Senator from Wisconsin; but he has made a very important statement, and if he will allow me to read a paragraph he will perhaps desire to change the statement he has made, if I correctly understood him.

Mr. LA FOLLETTE. No; I would not. I am familiar with everything the Senator would read. There is nothing on this subject in the reports of the Interstate Commerce Commission with which I am not entirely familiar. Let me say that, and then I will proceed to address myself to this question.

Mr. FORAKER. I am glad to know somebody who is entirely familiar with everything that the Commission has said on this subject.

Mr. LA FOLLETTE. The Senator from Ohio will have ample opportunity, if he desires——

Mr. FORAKER. Yes; I will have.

Mr. LA FOLLETTE. To challenge anything I may wish to say here. He will have ample opportunity to do it in his own time. I do not mean by that to cut off any reasonable interruption.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield further to the Senator from Ohio?

Mr. LA FOLLETTE. I do not just at this time.

The VICE-PRESIDENT. The Senator frim Wisconsin declines to yield.

Mr. FORAKER. Will the Senator allow me to read one paragraph?

Mr. LA FOLLETTE. Oh, yes.

Mr. FORAKER. That is all I want.

Mr. LA FOLLETTE. I will consent to that.

Mr. FORAKER. I should think the Senator would not object to that.

Mr. President, the Commission, in the course of their discussion of the Elkins law, the whole of which, notwithstanding the Senator's familiarity with it, I commend to him for rereading, say this:

> The amended law has abolished the penalty of imprisonment, and the only punishment now provided is the imposition of fines. As the corporation can not be imprisoned or otherwise punished for misdemeanors than by money penalties, it was deemed expedient that no greater punishment be visited upon the offending officer or agent. The various arguments in favor of this change have been stated in former reports and need not here be repeated. Whether the good results claimed by its advocates will be realized is by no means certain, but the present plan should doubtless be continued until its utility is further tested.

And so they go on at considerable length, showing, as reference to their former reports shows, that they have been on their own motion repeatedly recommending that identical legislation before ever it was enacted by Congress.

Mr. LA FOLLETTE. Mr. President, I deny that the report read by the Senator or any of the reports of the Interstate Commerce Commission recommend the abolition of imprisonment as a penalty for violation of the law. I assert that they have always maintained in their reports to Congress, notwithstanding the insistence of the railroad companies that it should be done, they doubted that it would be the means of bringing into court offenders against the law, which the railroad companies always professed to believe, in trying insidiously to get the committees of Congress to incorporate into the law the provision that punishment by imprisonment should be abrogated. The arguments referred to in previous reports are the arguments of the railroads, not the arguments of the Commission. I furthermore assert that in the last report made by the Interstate Commerce Commission, the report for 1905, they say that whatever they have said heretofore in commendation of the Elkins law they now desire to qualify. I am not quoting their language, but its import. Oh, I know, Mr. President, that it will be possible for the Senator from Ohio [Mr. FORAKER]—and he has already done so—as it will be possible for other Senators here to quote the Interstate Commerce Commission in approval of the Elkins law. I know it will be possible to quote Mr. Bacon, from my own State, and Mr. Cowan, of Texas.

Mr. President, I am impelled by the interruption to say that the records of Congress show that for nine years the Interstate Commerce Commission has cooled its heels around the corridors and about the doors of the committee rooms of Congress. Cowan, of Texas; Bacon, of Wisconsin; Call, of California—any number of men have been here pleading for legislation that would relieve the commerce of the country from the oppression under which it suffers.

And when finally this committee or the committees of Congress reported favorably the Elkins law, it occasioned a good deal of rejoicing among those men. It is possible to quote from Bacon and Call and Cowan and the Interstate Commerce Commission in commendation of the Elkins law. That is true; I concede that. The stir of life in the recesses of the committee room having charge of this legislation, of which the report of that measure gave evidence, was a great encouragement to these gentlemen, who had waited about here and had made their arguments, who had shown that the industries of this country were being oppressed, who had shown that the commerce of the country was languishing under the burdens imposed upon it by the railroads.

I say it was natural, Mr. President, that they should give some manifestations of joy that there had finally issued from the committees of Congress having charge of this subject of legislation evidences of life and interest. They had waited for nine or ten years, and they said many things at that time, the Commission said some things in their reports, which a careful reading of subsequent reports will show they are now seeking in a measure to qualify or retract. Take the very last report of the Commission, that for 1905, which is just laid on the desks of Senators. I do not quote its exact language, but it says, in substance, that many of the commendations heretofore given now have to be qualified. The Commission are coming to understand that the Elkins law did not do what they believed and hoped it would do; that it did not stop the payment of rebates; that it did not prevent the granting of privileges.

Mr. President, let me say that an investigation made while I had the honor to be governor of Wisconsin with respect to the effect of the Elkins law resulted in some important and startling disclosures.

In Wisconsin since 1854 the railroads, under a law which they succeeded in passing through the Wisconsin legislature, have paid taxes based upon their own report to the State of the amount of their gross earnings. You can see very readily that this law would give the railroad companies of that State the opportunity to determine for themselves the amount of their taxes. If they chose to report their gross earnings at a sum less than they actually were for the business of the State, they could correspondingly reduce their taxes.

Strongly suspecting that this was being done, by special message I urged the legislature of the State to authorize investigations into the books and accounts of the railroad companies doing business in Wisconsin to find out whether they were reporting the full amount of their earnings. That was during the session of the legislature of 1903. That was just about the time of the passage of the Elkins law, which was approved on the 19th of February, 1903.

The legislature passed the law providing for such an investigation, and under it there were installed by the State, in the principal offices of the railroad companies doing business in Wisconsin, experts to examine their books, and determine whether they were reporting their full earnings to the State of Wisconsin. Of course that took the cover off completely.

Now, Mr. President, it was disclosed by this investigation that the railroads had withheld, in reporting for taxation their gross earnings on Wisconsin business, over a period of six years, more than ten and one-half million dollars; and of this amount more than $7,000,000 were deductions for rebates paid in violation of the interstate-commerce act and the Elkins law. Of this amount, $6,180,000 was rebates on freight and $972,000 was rebates on passenger traffic.

This investigation was begun on October 1, 1903, and continued through that year and through the year 1904. The Elkins law went into effect on the 19th of February, 1903. The amount of rebates shown by this investigation to have been paid by one of the leading roads, on Wisconsin business alone, month by month through the year 1903, was, in round numbers, as follows:

January	$37,000
February	57,000
March	47,000
April	36,000
May	25,000
June	13,000
July	101,000
August	32,000
September	46,000
October	9,000
November	666
December	2,032

Mr. President, notwithstanding that the Elkins law went into effect February 19, more rebates were paid in February than in January, and more were paid in March than in January, and in July nearly three times as much was paid in rebates as in January; and the rebates only began to diminish, not in obedience to the Elkins law, but in recognition of the fact that there were experts from Wisconsin looking into their books. From the beginning of the investigation, October 1, the rebates were very perceptibly reduced.

Furthermore, Mr. President, the investigation showed that one of the leading roads paid more in rebates in 1903 than it had paid in 1902; while the other leading road doubled its rebates in 1903, paying that year $200,000 more rebates than in the year before the Elkins law was passed.

So I say, Mr. President, we have there in that one State indubitable evidence, admitting contradiction from no man, of the failure of the Elkins law as a restriction on the payment of rebates or the granting of privileges.

I agree with what I contend is at least the strong intimation of the Interstate Commerce Commission, that taking away all authority to administer punishment by imprisonment is manifestly one of the reasons why the railroad companies have violated the Elkins law with impunity.

So I say, Mr. President, that the Interstate Commerce Commission does well in modifying its former indorsement of the Elkins law. Study their reports carefully and you will see that they are getting away from the unqualified approval which they gave it the first two years after its enactment. The time will come when they will be obliged to confess that they were mistaken in everything they said in approval of it—very nearly, not entirely; there are good provisions in it; but so far as stopping rebates is concerned it has failed.

The demonstration made by the investigation of the railroads doing business in Wisconsin was that the rebates increased after the Elkins law was passed. The penalty of imprisonment had been taken away. That is what was the matter. That is what the railroads insisted upon before the committees of Congress, and that is what, if you will read with fairness the recommendations of the Interstate Commerce Commission, the Commission had urged should not be done. But that is what the committees finally did, and as the result of it you have, as shown by the investigation of the railroad companies' books with respect to business done in Wisconsin, an increase of the payment of rebates under the Elkins law; and I have reason, as a result of that investigation, to assert my belief that the payment of rebates has increased under the Elkins law rather than diminished. I believe that ultimately an investigation of that subject will drive every man whose mind is open to honest conviction to that conclusion.

Mr. President, I started out at the opening of my remarks to recapitulate what I had said yesterday in order to get back to a point of beginning for to-day. So I must not give way to the call which every one of these questions and issues makes upon me to digress into the field of discussion of this great question which in every phase is as broad as the country, and which goes deeply and vitally into the interests and lives of all the people.

Mr. President, I find here upon my desk one of the passages in the last report of the Commission, issued December 14, 1905, for which I sought a few moments ago in my notes. It reads as follows:

> In our annual report for 1903 we endeavored to explain the changes in the regulating statute effected by the Elkins law, so called, which was approved in the previous February, and made some favorable comments upon its operation. A similar opinion was expressed in the report made a year ago. Further experience, however, compels us to modify in some degree the hopeful expectations then entertained. Not only have various devices for evading the law been brought into use, but the actual payment of rebates as such has been here and there resumed.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. LA FOLLETTE. I do, sir.

Mr. FORAKER. Will the Senator read the whole of that paragraph?

Mr. LA FOLLETTE. Well, I do not know how extended it is——

Mr. FORAKER. The next two or three sentences.

Mr. LA FOLLETTE. It may go clear through the report.

Mr. FORAKER. No; there are only two or three other sentences. If the Senator will allow me, I will read them.

Mr. LA FOLLETTE. I will read them.

Mr. FORAKER. I have them before me.

Mr. LA FOLLETTE. I will say to the Senator from Ohio I will read them.

> Instances of this kind have been established by convincing proof, on which prosecutions have been commenced and are now pending. More frequently the unjust preference is brought about by methods which may escape the penalties of the law, but which plainly operate to defeat its purpose. This does not imply any want of satisfaction with the act of 1903, which we regard as a most admirable measure, nor any belief that there is a general return to former practices, for the fact is undoubtedly otherwise; but it does mean that this type of evil has by no means disappeared and that it is liable to increase unless effectively restrained.

Let me say to the distinguished Senator from Ohio that when the Interstate Commerce Commission have had the opportunity to investigate the books of the railroad companies as freely and thoroughly as we have in Wisconsin with respect to Wisconsin business they will not put any reservations upon their language as they did there.

Mr. FORAKER. Mr. President——

Mr. LA FOLLETTE. They will easily be driven to the position that the violations of law under the Elkins Act with respect to discriminations have not been checked or stopped at all. Indeed, Mr. President, as shown by the patient and careful investigation made by the experts of Wisconsin they increased under the Elkins law. And let me say this——

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. FORAKER. Will the Senator allow me to ask him one question before he gets away from that subject?

Mr. LA FOLLETTE. Oh, certainly. But I will not get away from it; I like it.

Mr. FORAKER. Would the Senator expect evil practices to cease without an enforcement of the law? The law by itself being simply put on the statute books could not, of course, break up anything.

Mr. LA FOLLETTE. Yes, Mr. President; I would expect the eminent gentlemen who are running the railroads of this country to obey a law passed by Congress which makes an act of theirs criminal before they have been called to the bar of the court to answer in a criminal proceeding.

I remember a few days ago in the discussion here that the Senator from Ohio rose in his place and said to some one—I do not remember who it was—that the railroad officials of this country are not criminals. I say to the Senator that the records, so far as they have been exposed, show that the railroad officials of this country are, with rare exceptions, criminals under the statute.

Now, I mean what I say. I see Senators on that side smile; but let me say to you, gentlemen, that when in Wisconsin we summoned the railroad companies into court to answer for having juggled the reports of their annual gross earnings, which they were required by law to make under oath to the State official, when they appeared before the court and the testimony of the State was but partly offered, when the arguments over certain law propositions had been concluded, those officials—and they are just as honorable as the officials of any railroad companies in the United States—came into court and stipulated that they had violated the law, and went to the supreme court on a question of the statute, as to whether or not, to state it specifically, their report to the State officer and its acceptance by that officer, even if the report was a violation of the statute, had not bound the State. That is what they did. They confessed a violation of the statute; they confessed having under oath reported their gross earnings short of the true amount as required by the statute; and they are just as honorable as the railroad officials of any State in this Union.

Mr. President, before I concluded yesterday I called the attention of the Senate to the list of killed and injured in this country—railway employees and passengers—and I presented the facts to show that such accidents are many times more numerous here than in Prussia, where the railroads are operated in the interest of the public welfare; and I ask, on that ground, consideration for an amendment which I shall offer before this bill is disposed of to prevent this needless destruction of life and limb.

I also called attention, Mr. President, to certain other defects where amendments, it seems to me, are required in the pending bill, if it is to be within constitutional limitation and if it is to be made effective for the protection of the commerce of this country.

I do not reflect upon any of the gentlemen who have prepared this bill, but I desire to ask members of the Senate who would see a measure framed that shall in all its provisions be guarded with respect to constitutional violations to scan every line and section of it.

And now I come, sir, to a more extended discussion of certain powers which should be conferred upon the Interstate Commerce Commission.

BROAD POWERS DEMANDED.

Reason and experience alike compel the conclusion that any supervision or regulation of railway rates or services, to be of material benefit to the public and adequate protection from railway abuses, must be the fullest and most complete regulation. It must not stop with conferring authority to prevent only a part of the evils of which there is complaint. It must meet and satisfy all just complaints. It must anticipate those devices of the future which would seek to circumvent and defeat its purpose. Unless it does these things, it will be found in the hour of need that it is too weak to prevent even those abuses against which it is directed.

To attain these ends, broad powers must be conferred upon the Commission. It must be assumed that the Commission in its exercise of these powers will not exceed that which is wise

and necessary in the public interest. The Commission is accountable in the event of any such excess or abuse of power to the courts and to the public.

To accomplish these results the system of regulation must be right in principle; it must rest on the broad foundation that the *Government shall possess powers of correction coextensive with the railway corporation's powers of abuse.* Whenever the railroad makes, in respect to its service, any rates, classification, or regulation whatsoever which are unjust or unreasonable as compared with any other rate or regulation or which are of themselves unreasonable or excessive, or does any other thing or pursues any policy at variance with the public interest and the general welfare, then the Government should have and exercise the power to set aside and prohibit such injustice or abuse and institute and enforce in lieu thereof any other rate, classification, regulation, thing, or policy that will best subserve the general welfare.

Whatever powers are conferred, their exercise should not in any manner be made solely to depend upon the complaints of any individual or class of citizens. In the benefits of this legislation all are entitled to share. The welfare of all the people as consumers should be the supreme consideration of the Government. It should be the chief concern of the Commission.

I am driven to protest against the attitude in which the proposed bill approaches the subject of railway regulation. The bill has been heralded to Congress and to the public as a measure to increase the powers of the Interstate Commerce Commission and to confer upon the Commission the authority and the power to enforce the provisions of the interstate-commerce act that all rates shall be just and reasonable. *In fact*, the bill, if passed in its present form, will *not so* increase the powers of the Commission. The provisions which should be in this bill to that end are made conspicuous by reason of their omission.

Even this bill, with its powers limited to a provision for publicity and for equalizing relatively unfair rates on complaint only, meets with formidable opposition in this Senate. Senators have contended in debate, day after day, that even these powers should not become effective without providing that every order of the Commission should in every item and particular be completely retried and reheard, de novo, in the courts.

If we view this attitude with the utmost consideration and respect for its exponents, the best we can say of it is that it expresses profound distrust of any system of Government regulation of railroads. The logical conclusion of such a position is that it is unsafe to confer upon the Commission the powers that are vital and essential to any system of regulation in the public interest that will reach and correct unreasonable and unjust rates. The distrust that results in the omission of vital and essential powers from the bill differs only in degree from the distrust that would prevent any powers conferred from becoming effective.

The effort that seeks to prevent the real exercise of any additional power has at least the merit of consistency with the attitude of distrust, to which it is a response. If the Commission can not safely be intrusted with the power to regulate rates with respect to their reasonableness, it can not safely be intrusted with the power to determine the relation of rates of which it may receive complaints. If we apprehend that the Commission will not exercise a given power wisely and in good faith, that power should not be conferred, whether it be great or little. Any legislation which does not proceed upon the basis that it is a wise, just, and safe exercise of legislative power can not achieve any enduring good. Without these supporting considerations, such legislation can be urged only on grounds of political expediency. But let no man be misled by the expectation that any half-way measure will serve even the end of political expediency. The public will not accept from its servants any compromise of the full discharge of their official obligation. It experienced one great disappointment in railway legislation, which failed to enact that which was demanded by the conditions and that which it was supposed to enact. It will not require another ten years to discover the deficiencies in this legislation. They will be recognized at once.

THE RELATION OF RATES.

That powers to regulate the relation of rates and to determine rates for the future, if conferred, would not be exercised by the Commission wisely and in good faith, is suggested on every hand. The magnitude of such power is urged against intrusting it to the Commission. The Senator from Iowa [Mr. DOLLIVER] indorses the decision of the court in the Maximum Rate case, not only as a correct interpretation of the language of the statute, but also because that decision, in his opinion, stopped the Commission from the further exercise of the great and dangerous powers—

> To bring into judgment a score of railways, serving different sections of the country, and a hundred cities seeking access to the same market, and to balance their claims and pass sentence upon their commercial opportunities.

No one can dispute with the Senator the magnitude of this far-reaching power. But is this power of any less magnitude or capable of any more dangerous application when exercised by railroads than if exercised by the Commission? He says further:

> We are not, therefore, attempting to restore the power which the Commission lost by that decision. No careful student of this problem would do that if he could, and no Congress, in my opinion, will ever enact a law to take the development of widely separated regions, the interests of competing markets, the growth of rival seaports contending for the prizes of the ocean, out of the hands of the railways, which have grown up with them, and the natural laws of business which have created them, and stake their worldly prospects on the decision of any earthly tribunal, even if its salary were raised to correspond with the size of such a job.

Just what distinction can be made between the exercise of this power by the railroads and its exercise by a Government commission? It is clear that such a commission would be an "earthly tribunal." Are we to conclude that there is something more than earthly about railroad managers; that they, perhaps, exercise these enormous powers by some divine right and interpret the "laws of business" under the guidance of divine inspiration?

I submit that we can not progress in this legislation on any other basis than on the assumption that the powers proposed to be conferred will be exercised honestly and in good faith. At the worst those intrusted with the exercise of these powers will be agents of the Government and accountable to the Government, to the public, and to the courts for any misuse of their power. A private railway management is accountable to no one. All the outrages chargeable against any form of management or possible to commit in the conduct of the transportation business of the country have been repeatedly and constantly perpetrated by our free and unregulated railway managements without accountability and with scarcely even so much as any attempt at concealment. The experience of the American public in its efforts to secure fair treatment at the hands of the railroads has been a record of the most bitter disappointment. It is inconceivable that on this record there should be an appeal to the people against Government regulation on the ground that such regulation might be administered in subservience to selfish ends and not in the interest of the general welfare.

There is nothing in the record of railway domination of the industrial development of this country which should deter us from taking that domination "out of the hands of the railways." On the contrary there is much to demand such action. The mainspring of the railway policy that decides which centers shall succeed and which shall fail, is the selfish interest of the carrier. It has no concern in the promotion of commerce in the public interest. The social economy of serving a given territory from the center which would serve it best and cheapest, the economy of the multiplication of convenient centers of trade and industry, of the building up of many small cities well distributed over the country, is wholly disregarded. It does not suit the schemes of the traffic managers. Their aim is the long haul, the big tonnage, the large revenues, and the dividend. To these considerations all else is sacrificed.

In the interest of this policy the bulk of the country's commerce is centralized for distribution at four points across the continent, the Atlantic coast, the head of the Great Lakes, the Missouri River, and the Pacific coast. The railroads are fighting every interior center between the Atlantic coast and the head of the Great Lakes; every center between the Great Lakes and the Missouri River; every center between the Missouri River and the Pacific coast. Only where water competition enters to restrain the rapacity of carriers is there peace or feeling of security. From the Southeast to the Northwest the complaints come; and from the Northeast to the Southwest. In every locality it is the most important industries and lines of trade that are attacked and are suffering.

A few of these oppressed interior localities have laid their grievances before the committees of Congress. They are merely types of scores of communities similarly situated. These, however, are important of themselves, and of vast significance. For the most part they are cities of considerable size, and represent large sections of country. These cities are distributed from the Atlantic coast to the Pacific. There is Danville, in Virginia; Atlanta, in Georgia; Nashville, in Tennessee; St. Louis, in the Mississippi Valley; Denver, on the Great Plains; and Spokane, in the Far West. They simply represent types.

The smaller places do not complain so much—not because they do not suffer; they suffer most, as a matter of fact—but because they are without commercial organization and without recourse in their industrial plight.

The complaints of shippers and representative citizens before the committees of Congress showed in detail the nature of the discriminations between localities. It covers discriminations in all the various forms between persons and commodities. It shows the enormous advances in freight rates. It sets forth the abandonment by the railways of an enormous traffic to irresponsible private corporations, freight line, refrigerator car, and express companies, and the discrimination and oppression practiced by those corporations.

I have prepared a brief review of this evidence in a condensed and related form, which I shall append to my remarks, and, if it is necessary in order to obtain that privilege, I suspend now and ask it. I have condensed the testimony taken before the committees, and I portray in some seventy-four typewritten pages the iniquities under which the commerce of the country suffers because it has been given over to the domination of the corporations. It is an array of fact that refutes utterly the claim made in this debate that the railways should be permitted to control rates, regulations, and the destination of our commerce. I ask leave, sir, to print that as an appendix to my remarks. (Appendix A.)

The VICE-PRESIDENT. Without objection, leave is granted.

Mr. LA FOLLETTE. It will be convenient as a reference for those who are interested in these facts and conditions.

Mr. President, I think perhaps I ought to say that it is my personal belief that not only the junior Senator from Iowa [Mr. DOLLIVER], but many other Senators, when they come, as they will come, because of their interest in this important subject, to consider every phase of it, as bearing on the welfare of the people of this country, will be found standing for that which the interests of this country demand.

I recall, in the course of the eloquent and able address delivered early in the debate by the Senator from Iowa, the statement, which may have escaped others, but which I noted, that his opinions with respect to this question, though perhaps it was more particularly with respect to the Commission itself, had undergone somewhat of a change in the last year or so. I am sure that he approaches this question to-day with an open mind.

When any man who cares for his country comes to realize the true significance of the control of commerce upon the development of all industry, the location of markets, the building of cities, the density of population, the tremendous influence upon the economic and social life of the people, with all its consequence to this generation and the generations to come, he will be shocked that it should all be left in the hands of the traffic managers of railroads. The control of commerce—its regulation, its rates, its distribution and destination—go to the upbuilding of the State, the nation. It must be controlled unselfishly, controlled with the highest patriotism, upon a broad, national policy.

When this idea is once grasped, when it once possesses the American people, does the Senate believe, does anyone believe that they will permit the destiny of this nation to be controlled by a board of managers of consolidated railways?

Sir, I say to the Senate here to-day that nothing, *absolutely nothing*, can prevent the ultimate government ownership of the railroads of this country except a strict government control of the railroads of the country. [Manifestations of applause in the galleries.]

The VICE-PRESIDENT. The Senator from Wisconsin will suspend while the Chair warns the occupants of the galleries against further violation of the rules of the Senate, which forbid applause or demonstrations in the galleries. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. I next invite attention to the arguments and misstatements which have been made in this debate with respect to the regulation of railroads abroad.

FOREIGN RESULTS MISSTATED.

For the purpose of limiting the scope of legislation and the powers to be conferred upon the Commission, faults and failures in government regulation abroad have been alleged in the course of this debate. The argument is scarcely a legitimate one, unless all of the conditions are known and presented, so that just comparison may be instituted. However, since it has been made so prominent a feature of the discussion by the Senator from Massachusetts [Mr. LODGE], it demands consideration. I regret, Mr. President, that I am not honored with the presence of the Senator from Massachusetts [Mr. LODGE].

Much the same arguments to the same effect were used with reference to several foreign countries. All were offered as examples of the dire effects of government regulation which is strong enough to regulate. It will be entirely fair, therefore, to test his conclusion by examination of any one of the typical countries cited by him to sustain his contention.

As an example, the Prussian system may well be considered. In Prussia governmental regulation of railways has gone to the extreme of government ownership and operation. It is contended by those opposed to effective government regulation that all the evils resulting from government interference are found intensified in the German system. Another reason why these representations of the Prussian system may very properly be made the test of all the foreign comparisons introduced into this discussion is the availability in the case of Prussia of abundant reliable information showing the actual conditions existing.

The chief criticisms preferred against the Prussian, as well as other foreign systems, are: First, that the administration of the railways and the making of rates are perverted to serve the political ends of the officials having charge; second, that the rates are adjusted on an inflexible, arbitrary basis, which is prohibitive for important commodities and long distances; third, that the system does not subserve the general interest and the needs of commerce.

The assertion that under the Prussian system the rate-making powers of the Government are exercised in subservience to political ends and not honestly in the public interest may be dismissed with the briefest consideration. It is probably sufficient to say that no satisfactory evidence warranting such a conclusion has been thus far offered. It is manifestly improper for us, strangers to all the facts and conditions, to here pass judgment condemning the acts and motives of public officials highly esteemed in their own country.

I stop a moment, Mr. President, to read a few lines from a contribution made to the Journal of Political Economics in February, 1906, by B. H. Meyer. B. H. Meyer was a professor in the Wisconsin University. He was at the head of the transportation department of the department of economics of that university. He had been offered, Mr. President, I may say, at a very much higher salary, a like position in two different leading universities of the East. He declined these offers because of his devotion to the State in which he was born. He had been offered the editorship of one of the leading railway publications of the country at a salary amounting to three times that which he received from the University of Wisconsin. He declined it. He consented to accept, at my hands, an appointment upon the railway commission of Wisconsin, established under the law of 1905, because he saw an opportunity to serve in a public way the State which had given him birth, which had educated him, and which had helped to make him one of the foremost authorities upon the transportation problem in the world to-day.

And let me say, Mr. President, that Professor Meyer returned to take his position upon the Wisconsin railway commission from a trip abroad, in which he made a study of this great question in foreign countries.

With respect to the political phase of railroad regulation in Prussia, I wish to read from Professor Meyer the following. Speaking of the conflict of politics in railway regulation in this country as compared and contrasted with the conflict of politics in Prussian regulation under government ownership, he says:

> In the invidious American sense of the word, the Prussian railways are most emphatically not in politics. There are no paid lobbyists, no subsidized newspapers, no partisan publication bureaus, no "rake offs." I have been able to discover only one instance of dishonesty and faithlessness, and that was a case of a subordinate employee who had appropriated railway scrap to his own uses. The case was tried only a few months ago. The man was sentenced to the penitentiary for a term of five years.
>
> Who will venture to say what would happen if the books of the American railway companies were to be subjected to the tests of the Prussian, with the same consequences in the courts? In all the testimony taken before the Senate Committee on Interstate Commerce I do not remember having seen a single statement something like this:
>
> Question. "Mr. ———, does your road discriminate?"
>
> Answer. "No, sir."
>
> Question. "Mr. ———, do you pay rebates?"
>
> Answer. "No. And I wish to say to you, Senators, that if you desire to convince yourselves of the truth of my statements, I cordially invite you to appoint expert accountants to investigate the books of my company."

There is quite a difference apparently, Mr. President, between the conditions existing with respect to political bias in Prussia and in this country.

The statement that the basis of railway rates established under government administration in Prussia is arbitrary and inflexible and not adjusted to meet the legitimate requirements of commerce is not borne out by an examination of the facts. The Senator from Massachusetts [Mr. LODGE], in describing the Prussian rate system, dismisses some sixty special and commodity tariffs with little more than the passing statement that "government rate making in Prussia has resulted in giving discriminations to this traffic." If by discrimination we mean the unequal treatment of different commodities and places, basing this inequality upon a careful study

and analysis of the concrete economic conditions under which the traffic is conducted, it is true that more than 80 per cent of the Prussian traffic is carried at discriminating rates. But this is not the sense in which "discrimination" is used in describing American abuses in railway management. If the German use of "discrimination" is made the test, every rate and every classification which departs from a yardstick rule of making classification and rates is a discrimination.

It is interesting to note in passing that the opponents of government regulation of rates have based many of their arguments on the contention that under such regulation these discriminations would be impossible.

The following is a summary of the special and commodity tariffs in force on the Prussian state railways and the per cent of the total traffic which in 1902 moved under the tariffs in each class, respectively:

	Per cent.
Special tariffs 1, 2, and 3	24.3
Commodity tariffs, 5 to 10 tons	.5
Commodity tariffs, 10 tons and over	64.2

The remainder of the traffic is handled under the general-class tariffs.

The development of the commodity tariffs is shown by the fact that the traffic moved under them increased from 45.5 per cent in 1890–91 to 64.2 per cent in 1902.

This goes to show that the system is not inflexible, but that it develops with the needs of the country's commerce.

Among the important commodity tariffs is the raw-materials tariff, which embraces, among other things, timber, stone, potash, bituminous coal, coke, briquettes.

You see how the Government in Prussia considers everything pertaining to the development of particular sections of the country that have it within them industrially to build up specific industries. While the rates under those commodity tariffs vary with the distance, as they undeniably should, the rate is not simply a mileage rate. The scale varies for different commodities; for the same commodities for different distances and in different sections and in different directions. Among the many commodity tariffs made up in like manner are the following: Wood, iron pyrites, zinc ore, chicory root, potash, stone, salt, artificial manures (4 tariffs), road-building materials, stones (10 tariffs), coal, coke, briquettes, and coal ashes (5 tariffs), iron ore and iron-ore slags—which are used for agricultural manures—(3 tariffs), slate, alcohol (6 tariffs), grain and mill products (2 tariffs), slate, alcohol, kerosene, petroleum, and naphtha. There are also distinct scales for export shipments of grain, potatoes, starch, fabrics, iron and steel articles, glass goods, iron, vitriol, etc., as well as import tariffs on cotton and similar raw materials. Besides those special tariffs as above, there are special scales in the tariffs for commerce into the German Levant and East Africa.

Under the policy of the Prussian railway ministry in respect to tariffs on raw materials and other commodities of importance in industrial development and general welfare of the country, this traffic has been developed with signal success. The following figures, taken from the official publications, show the enormous increase in the railway traffic in a number of such commodities from 1885 to 1903:

	Per cent.
Iron ore	189
Bituminous coal, coke	117
Iron articles	241
Mine timber, lintels	145
Lignite	184
Cut timber	126
Rough stone, brick	247
Paper and pulp board	289
Burnt lime	224
Artificial manures	405
Mill and milling fabrics	190
Refined sugar	173
Cement	418
Potatoes	194
Beets (sugar)	168
Pottery	137
Pig iron	178
Glass, glassware	193
Cellulose and celluloid	224

These figures show how they have built up great industries and developed special lines of traffic under strict government regulation in Prussia.

It is to the further credit of the Prussian management that those increases in traffic were brought about with constantly decreasing charges and constantly increasing revenues to the state, and without any of that harrowing economic labor such as has been represented by some investigators of this subject.

It becomes of interest to consider the manner in which such adjustments and reductions are brought about under the Prussian system. Bear in mind, in the meantime, the familiar forces and inducements which, in this country, secure from the railways special concessions, commodity rates, and rebates, in the interests of big and influential shippers, and tariff concessions to favored localities.

It has been stated by the Senator from Massachusetts [Mr. LODGE] of the Prussian commodity rates that—

> These reductions can not be governed by economic reasons, but are in the main brought about by the pressure of political and industrial interests, and there must be, and indeed there is, a constant struggle between these interests to secure for each its share of the favors of low rates.

When it is asserted that "these reductions can not be governed by economic reasons," I beg to ask upon what other reasons do they rest? The proceedings of the various bodies which have to do with the making of such rates show that it is exactly the economic reasons which govern these changes. Other reasons may occasionally enter, but if there is one factor which above all others determines these reductions, it is the economic factor. Various economic forces struggle for control there as they do here. In the United States this struggle is frequently a one-sided one. When parties are unequal in strength, the railroad invariably decides in favor of the stronger party, irrespective of the justice in the controversy. In Germany, the Government, on the basis of wise and carefully formulated legislation, decides the rules under which this struggle shall take place.

Practically all reductions represented in the Prussian special and commodity tariffs are the result of a well-established, systematic procedure, in which all interests are fairly and fully and publicly heard. This system, after being tried in Prussia, has come to be adopted in most continental states.

Mr. President, I stop a moment to ask the attention of the Senate again to what Professor Meyer, to whom I am under special obligations with respect to this phase of the discussion, says, as a result of his investigation. The character of the investigations of complaints, the openness and publicity on all contested matters before government officials in Prussia, is in striking contrast to the methods employed by the railway officials controlling transportation in America. Professor Meyer states that there are conflicts there between different industrial centers and interests as there are here. He says:

> Such a conflict of interests exists in Prussia. It exists also in the United States. In Prussia all these conflicts take place in the full light of publicity. The proceedings of councils and committees and the legislature reveal every phase of every railway rate question which is brought forward.
>
> In Prussia every interest, no matter how small, has an opportunity of being heard publicly on every railway question which affects it, and the decision is made public and known to all. In the United States only the strong and importunate ones are sure of consideration. There are no public deliberations. There is no public decision. Little or nothing may become known to those who would profit by such knowledge.

The Prussian state railways are divided for administrative purposes into 21 groups or managements. In the territory of each of these managements there are public, semiofficial boards, in which the chambers of commerce, the chiefs of the various mercantile corporations and unions of manufacturers or producers, and the unions or lodges of agricultural, forest, and other extractive industries have their representatives. These boards, constituted as indicated, cooperate with the local railway managements in each district in determining the needs of commerce. They meet at stated periods, and on motion of the persons in interest may be called together at any time as need arises. Their deliberations pass ultimately to the central railway council for the state. In this way changes and adjustments are brought about in a public manner, all interests being heard fully, and reforms are worked out in such a manner as not to injure the general interest of the state and to give each interest represented in the various districts its proper weight and the rates and classifications called for by its economic needs. One of the results of this deliberate method of arriving at and determining changes in rates and regulations is that the rates so established are never afterwards raised, and stability, which is so important a factor in business relations, is thereby secured.

As going to show the high esteem in which the German method of rate adjustment is held by impartial and well-informed authorities, I quote the following from the London Statist:

> The German Government, true to its tendency, is never weary of accelerating their progress by assisting trade in every way possible. In Prussia, for example, the railways are all state property, and they are worked, not to bring in the most revenue possible but to promote trade to the utmost.
>
> Moreover, traders are encouranged and assisted in forming all kinds of societies calculated to promote their interests, and the Government continually consults representatives of the different trades. Over and above this, the Government is always ready to use its great influence, not only to open up new markets but likewise to acquire markets for its traders.

Recently there have been two authoritative studies of our railway system by representatives of the German Government. In reporting one of these, Mr. G. Franke (Archiv für Eisenbahnwesen) makes a most instructive comparison of American and German methods of rate adjustment from the German standpoint.

Mr. Franke is a Prussian governmental official of long experience, having had charge in the technical affairs of railway administration.

I shall quote a few paragraphs from Mr. Franke's report, because, as I remember it, the Senator from Massachusetts particularly arraigned the Prussian system as having demonstrated that a large government control is a most harmful thing for the industrial development of the country. Mr. Franke came to this country and made a study of our institutions, of our commercial and industrial development, of our railroad systems, and he contrasted them with those of Prussia. He says, in part:

We Germans nowadays especially arrange all our tariffs and make changes in them exclusively to further general economic needs of all the people by reductions. In a very subsidiary degree we give effect to considerations of revenue.

Of course where you leave it to the railroads the first consideration is revenue—dividends, surplus.

* * * Per contra, *in American considerations of getting the utmost for the railways is the fundamental basis of rate making. * * * Rates are never made to serve the general interest of all the people. They obtain consideration only indirectly or covertly in so far as it answers the purpose of filling the strong box of the railways*, as, for example, in cases where a railway makes a rate to *hold tonnage* or to help some city or a certain market or is forced to meet competition of certain products in the world's markets.

In respect to the interests of shippers he says:

This one-sided view of regarding the railways as *private enterprises* can not permit the shippers to have *as a right* a voice in the determination of rates as is the case in Germany. *In the case of mammoth industries this is provided for by the community of interest of the great financiers. Except for this identity of control there is no regard paid to the interests of the shippers at large. In consequence thereof there is continually a bitter conflict of interests going on between the tariff policy of the railways and the needs of commerce, industry, and agriculture.* The general impression received from interviews with shippers, a study of the pleadings and decisions of the Interstate Commerce Commission, and reading the testimony and reports of the Congressional committees lead one to the conclusion that *the great industrial combinations are of course well satisfied with the railway rate, but that the great mass of shippers whose livelihood is dependent on the proper adjustment of a railway rate are utterly dissatisfied and often greatly embittered at their position.* From this conclusion it will be seen that it is unfair, as is sometimes done in Germany, to take a few rates for iron ore, coal, or some other crude materials of the great industrial combinations and place in contrast thereto our rates and to draw conclusions from these paper rates, quite apart from the fact that a great number of them have no real significance because of the *union of the railway and industrial interests in a common purse.*

As, for instance, the Chesapeake and Ohio Railway Company in coal as reported in an important decision handed down by the Supreme Court only a few days ago.

The greed for profits and the disregard of public interest which characterize American railway management is well reflected in the lack of proper provision for the safety of passengers and employees. The chief cause of this condition of affairs is the greed of American railways for profits, which keeps them from employing enough men to properly discharge their duties and the utter insufficiency, as compared with the German standard, of the number of persons employed to guard against accidents.

This is indeed a serious arraignment of our let-alone policy in contrast with absolute government control. I follow it up with some very important and significant facts.

The latest German report on our railways, just published a few weeks ago by Hoff & Schwabach—the Librarian of Congress was kind enough at my request to cable for some copies of the work, which arrived several days ago and may be consulted by those interested in pursuing this investigation.

In this report by Hoff & Schwabach, it is computed that if the American railways were as carefully guarded as the German we would have employed for that purpose 636,000 men, whereas we actually have less than 50,000, or less than 8 per cent of that number. It is further pointed out that our railways employ relatively fewer men in the maintenance of way and structures. These conditions, taken in connection with the lack of safety devices and our exposed and unguarded grade crossings, result in many unnecessary accidents. It is computed in this report that, relatively, the railways of the United States kill six and one-half times as many and injure twenty-nine times as many passengers as the Prussian railways, while the proportionate number of employees killed is more than three times, and the injured twenty-five times as great on the railways in the United States as in Prussia.

Both of these German reports point out that all rate comparisons between the two countries on the ton-mile basis are entirely misleading. The Hoff & Schwabach report says in this connection:

The conditions in America are fundamentally different from ours and make *unrestricted* comparisons regarding the level of rates impossible.

When *due allowances* are made for differences arising from capitalization, mail and express service, companies' freight, etc., it is the conclusion of the authors that the Prussian passenger rates are *less than one-half of the rates on our roads, and the freight rates are also considerably lower.*

The Senator from South Carolina [Mr. TILLMAN] directed the attention of the Senate and the country to that fact on the very day the Senator from Massachusetts [Mr. LODGE] concluded his address. The Senator from South Carolina, who is in charge of this bill, and who is alert in the public interest, rose promptly and presented a newspaper dispatch which referred to the contents of this volume, and noted the fact that when the necessary corrections are made to secure a legitimate basis for comparison of rates between America and Prussia they enjoy the lower rates and fares.

Professor Meyer, of the Wisconsin railway commission, to whom I have before alluded, who has made a very careful study of transportation matters here and abroad and is an authority on this subject, says of these comparisons that "no such careful comparisons have ever before been made."

The report expresses astonishment at some of the peculiar and mistaken views current here regarding German railways. One of these mentioned was the idea expressed to them by an American railway official that German railways are controlled in matters of policy and rates by political considerations.

This American railway official seems to entertain the same views respecting this subject as the Senator from Massachusetts.

After diligent and unprejudiced study of American conditions these German investigators say:

The descriptions in the preceding chapters will bear testimony to the fact that we earnestly endeavored to acquaint ourselves with the conditions of the railways in the United States without prejudice. With full recognition of the arrangements and services of the railways in the United States, their great work in the development of the country, we found nothing surprisingly grand or overwhelming; there may be found there as everywhere in the cultured world for the observing well-informed traveler, that which is better and that which is less good than what we have.

In Mr. Franke's article is made a detailed study of the many factors and conditions which invalidate comparisons of rates on the ton-mile basis as a criterion of the relative reasonableness of transportation charges in the two countries. Insomuch as it has been sought by such comparison to make it appear that our rates are reasonable it may be well to enumerate briefly some of these differences as given by Mr. Franke. He says:

It is well to state at the outset that it is impossible to arrive at reliable average freight rates for German and American railways. This is due to the difference of the fundamental basis on which the rates are established. All the more so as in the United States, the rates vary extraordinarily for the various species of freights, depending on the kind of traffic, whether local or through traffic, and still more dependent on the character of the railway. For this reason typical freights reduced to units of haul can not be established for separate classes of freight.

Among the reasons given by Mr. Franke why the "statistical average income per ton per mile is not adapted for bases of comparison" are the following:

(a) The average ton-mile rate on American railways is unduly depressed by the large proportion of transportation *wasted by circuitous routing.* The final report of the Industrial Commission gives examples of such circuitous routing by which 60 per cent—formerly as high as 250 per cent—of the transportation necessary is wasted.

(b) In the traffic statistics of the United States, companies' freight is included. This increases the tonnage without correspondingly increasing the revenues. This is not done in the German reports.

(c) The German statistics embrace large revenues from a comparatively small tonnage of high rate freight which is handled by the railroads there, but in this country is handled by express, fast freight, and private car lines companies, and the earnings of which is not included in the reported railroad revenues.

(d) The average length of haul for freight traffic in Germany on all Government roads regarded as a system is 78 miles (125 kilometers). In the United States, on all railways regarded as a system, the length of haul is about three times as great or (1901) 252 miles. It is a well-understood principle that the average rate per mile decreases with the length of the haul.

(e) *The statistical average on American roads does not represent the average of what the people have to pay, but a "lower rate than the public ever get." It is the average of the high rates charged the general public and the special rates to favored*

shippers after the rebates are deducted. The German average represents the rates that all the people pay.

In addition to the foregoing enumerated factors there are many other considerations that invalidate comparisons of rates per ton per mile and which are not taken into account in the railroad arguments. Foremost of which is the fundamental difference in the character of the traffic handled by railways here and in Europe. The proportion of ton-miles of cheap, bulky, heavy traffic, such commodities as soft coal and iron ore, carried by our roads is much greater, relatively, than abroad. While the quantity of this class of traffic has been greatly increased on the Prussian railways owing to the policy of low rates to the points having no water transportation, the proportion of such traffic is very much less than in this country, where coal alone constitutes about one-third of the total tonnage. In the countries of Continental Europe, where for centuries have been maintained extensive systems of river improvements and canals, the bulk of such traffic is carried by water because that is the cheapest known transportation. The omission of this great volume of the low-grade traffic from railroad tonnage of Germany obviously invalidates the average gross revenue per ton per mile as a basis of comparison of rates of the two countries.

The Senator from Massachusetts makes repeated reference to the fact that a large volume of the freight traffic of continental countries is carried by waterways. He refers to this fact as evidence of the failure in Government management or control of the railways. He says the commerce of these countries is driven to the waterways. The fact is that the waterways carried the freight traffic of these countries for centuries before the advent of railways. It would be just as pertinent to suggest that the inefficiency of the railways of this country or their mismanagement had driven commerce to the Great Lakes.

It would be a peculiar economic policy, indeed, which would seek to supplant in either country these magnificent waterways as carriers of heavy traffic with railroad transportation at far greater cost to the community. Especially so in Europe, where those waterways are the work of centuries and represent untold expenditures. The development of this class of traffic by the railways of Prussia has been mainly in an effort to supplement the water transportation, particularly to points not well supplied in this respect. When it is remembered that the waterways are maintained for the use of commerce, it must be conceded that the dissemination of industry and the development of this commerce at interior points is greatly to the credit of Prussian railway management, in so far as it has been done at all. I have already shown how greatly this character of traffic has been developed by the Prussian railways.

While the Senator from Massachusetts recognizes that in all European countries a vast part of the bulky traffic is carried by waterways, he makes no allowance for this fact in his statements of average railroad freight rates. The figures which he offers for the foreign countries in comparison with ours represent entirely different traffic and entirely different services. To use the English statistics of railways, for instance, which the Senator himself says are not to any considerable extent reliable, in comparison with our statistics is only to draw unwarranted conclusions. The authority which he quoted, Mr. Ackworth, in a contribution to the Journal of the Royal Statistical Society a few years ago, affirmed that comparative statistics in which English statistics of railways are a basis of comparison are practically worthless. Here, too, the Senator omits all consideration of the vast differences in the character of the service in the two countries, the much shorter haul in England; that the English freight rate includes cartage and storage, and, finally, he ignores entirely the effect of the peculiar geographical situation of England. It has an area of only about 50,000 square miles, or less than the area of North Carolina, nearly completely surrounded by sea, so that, according to parliamentary testimony, perhaps three-fifths of all the shipping points within England are subject to influence of water transportation which naturally appropriates a large portion of the cheap, heavy traffic. Fundamental differences of this kind are ignored by the Senator throughout his argument and his comparisons with foreign countries.

Surely, in the face of all these fundamental differences in the traffic conditions, all of which tend to show that the comparisons are wrong and to discredit the conclusions sought to be deduced therefrom, no one will contend that such arguments prove that government regulation is a failure in Germany, nor elsewhere, where the arguments are based on like disregard of fundamental conditions.

With our widely different institutions, our complex system of State and National Government, our marvelously rapid growth and development, the intense struggle for wealth and industrial centralization which has recently taken place in this country, the control of transportation in the United States is distinctively an American problem.

Investigation into foreign systems of management may offer comparisons of value, but it will not afford a basis for solution of the questions confronting us.

There is one very important lesson to be learned from the most casual review of the European countries. The line of difference as to policy is between government ownership and the strictest government control. None of the progressive countries of Europe adopts the let-alone policy. No authority on the subject contends that the public interest should be left at the mercy of the selfish control of private corporations. In view of the protection afforded by foreign countries to the people from the monopoly of transportation, the mild, inadequate power conferred on the Commission by this bill seems hardly to the credit of our boasted free institutions. In view of our industrial condition, that this legislation should fail to express the full power of our Government, of our Congress, as the measure of relief, is the best evidence that the public good is not the governing consideration, and is outweighed by the very influences with which the Government should cope.

I do not believe government ownership either the necessary or the best solution of the transportation problem as it exists in the United States to-day. But, as I trust I have made clear, for my whole argument is based on that premise, I believe that the Government of the United States is bound to exercise all the power of a sovereign nation to the end that the regulation and control of its commerce shall be just and equitable, not only to shippers, but to the whole public. It is bound to see to it that the country is not handed over to monopoly and to selfish interests.

VALUATION OF RAILWAY PROPERTY NECESSARY AS A BASIS FOR ESTABLISHING REASONABLE RATES.

Mr. President, I now ask the Senate to consider more fully a recommendation of the Commission, to which I made brief reference yesterday.

This recommendation lies at the very foundation of any system of government regulation, which is to secure just and reasonable rates. Unless this recommendation be adopted, and the bill amended in conformity with it, the Senate and the country might as well understand that the railroads are to be permitted to continue to advance rates without let or hindrance.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Iowa?

Mr. LA FOLLETTE. I do, sir.

Mr. DOLLIVER. I call the attention of the Senator to the fact that it is one of the purposes of section 15 of the pending bill to deal with rates that are unreasonably high.

Mr. LA FOLLETTE. Yes.

Mr. DOLLIVER. I know of no reason why the Interstate Commerce Commission may not consider whether a rate complained of is excessive, and deal with it on that basis.

I further desire to call the Senator's attention to the fact that the Committee on Interstate Commerce requested the Interstate Commerce Commission to send here a bill representing their matured convictions of what legislation ought to be had at this time, and that in the bill which they sent here the provisions for the valuation of all the railroads of the country did not appear, a circumstance which led me at least to think that the Commission, dealing with rates complained of as unreasonably high, if given the authority to reduce them would without further legislation be able to take into account the very question to which my friend refers.

Mr. LA FOLLETTE. I am aware, as I suggested yesterday, Mr. President, that the Commission submitted a bill to the committees of Congress, as stated by the Senator from Iowa; but when you lay that bill side by side with the recommendations which they submitted in 1897, which they reaffirmed in 1898, which they declared imperative in 1899, which they said were necessary to the protection of commerce in 1900, which they said were essential in 1901, and 1902, and 1903, and 1904, and 1905—when anyone compares that bill with all of those recommendations it can only mean that, unable to get what is necessary to a regulation of commerce, they are finally constrained to ask for what they think they can get.

Mr. President, I said yesterday that gentlemen who have been here for years supporting the recommendations of the Commission have not hesitated to say that they accept this bill because it is the best they can get; that they hope it is the entering wedge, and that it would ultimately lead on to legislation which would meet the demands of the country. I am not permitted to report what has been said to me by others,

but I may properly say this: That it is a fair inference, from a comparison of the reports of the Interstate Commerce Commission with the bill which they submitted to the committees of this Congress, that the bill so submitted goes only as far as the Commission thought the committees and Congress would permit the legislation to go at present. They were apparently not far wrong, because the bill, as they originally submitted it, was pretty badly trimmed up before it got out of the House Committee on Interstate Commerce.

Mr. DOLLIVER. Now, Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Iowa?

Mr. LA FOLLETTE. I do, sir.

Mr. DOLLIVER. Without undertaking to debate with the Senator from Wisconsin, I feel considerable interest in this bill, and I confess that I approached the subject in the present Congress from the standpoint of one who desired to have something done rather than from the standpoint of representing all my own views and opinions in respect to these propositions.

Mr. LA FOLLETTE. Well, Mr. President, when having "something done" means turning back the clock twenty years, when you reflect that in the last ten or fifteen years the industrial life of the people of the United States has been wholly changed, producer and consumer are oppressed, that the door of opportunity stands open no longer to individual enterprise, I say that legislation which only goes as far as the legislation of 1887 was understood to go (except as it embraces the private car companies and grants larger power with respect to publicity) is not "something" which the people of this country are entitled to have "done" at this time. I very much fear that simply getting a little "something done" is perhaps delaying for another ten years getting that which will liberate the industries and commerce of this country.

Now, Mr. President, I had started out to say, when interrupted, that the only restraint which will be interposed under the law, as proposed to be amended by this bill, will be that they will be required to keep the rates reasonably level. The rate line may be high, but it must be relatively just and equal.

And I think I will make it clear to the Senate that, under the bill as it stands to-day, rates can not be brought to the *reasonable rate* level, but only to the *equal rate* level—that is, the railway may impose any burden it pleases, provided the burden be reasonably distributed, the rates *relatively* equal.

There is a vast difference between *reasonable rates* and *equal rates.*

Mr. DOLLIVER. Why does my friend from Wisconsin ignore the fact that the bill is also framed for the purpose of preventing excessive rates?

Mr. LA FOLLETTE. Let me ask my good friend from Iowa to be patient with me a little. I know it takes me quite a good while to make my points clear; I am inclined to be discursive; I know that; but if you will just hear me for a little while I believe I will make it plain to you that under this bill you can not get reasonable rates.

I know that there is a provision in it that says the Commission shall, upon a complaint being made, ascertain whether the rates are just or reasonable, but I purpose to show the Senate that it does not do that, and I was proceeding to say that there is a vast difference between *reasonable* rates and *equal* rates.

This bill is framed to enable the Commission to determine and enforce *equal rates.* It makes no provision for determining and enforcing *reasonable rates.*

Mr. President, what are just and reasonable rates? The Supreme Court has defined just and reasonable rates to be such rates as afford "just compensation." The railroad is entitled to "just compensation;" it is entitled to no more.

It was held in Smythe *v.* Ames (169 U. S., 546):

> The utmost that any corporation operating a public highway can rightfully demand at the hands of the legislature when exerting its general power is that it receives what, under all the circumstances, is such compensation for the use of its property as will be *just* both to it and to the public.

How shall this "just compensation" be ascertained? In the case of St. Louis and Santa Fe Railway Company *v.* Gill (156 U. S., 649) the court said:

> The effect on the entire line of railroad is the correct test of the reasonableness of rates of fare which are attacked as taking of property without "just compensation" or due process of law.

The Supreme Court gave us, in the case of Smythe *v.* Ames (supra) a very clear indication of the course to be pursued on the part of Government in determining reasonable rates. Mark the language:

> If a railroad corporation has bonded its property for an amount that exceeds its fair value, or if its capitalization is largely fictitious, it may not impose upon the public the burden of such increased rates as may be required for the purpose of realizing profits upon such excessive valuation or fictitious capitalization.
>
> * * * * * * *
>
> If a corporation can not maintain such a highway and earn dividends for stockholders, it is a misfortune for it and them, which the Constitution does not require to be remedied by imposing unjust burdens upon the public.
>
> * * * * * * *
>
> We hold that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And, in order to ascertain the value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stocks, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property.

The court does not attempt to fix the limits of the investigation which must be made in each case. To deal justly between the railroads and the public the Commission will necessarily take into account every fact and circumstance which is entitled to consideration in fixing just and reasonable rates for the road under investigation.

This, then, is the law which has been laid down by the Supreme Court. This is the test which will be applied whenever the Commission makes rates and the railroads resist their enforcement. The corporation will deny that they are lawful rates; that they are reasonable rates; that they will afford them just compensation for the services rendered. The Commission must meet proof with proof. Otherwise the railroad company will overwhelm it in court and set aside the rates prescribed. Manifestly the Commission must be prepared to prove the fair value of the property of the railroad, its receipts from all sources, the sum required to meet operating expenses, and the probable earnings under the rates prescribed.

The interstate-commerce law declares unreasonable rates unlawful. The Supreme Court held that it provided no way to enforce the orders of the Commission. This bill makes provision for enforcing the orders of the Commission with respect to reasonable rates, but *it does not provide for ascertaining what are reasonable rates.*

It authorizes the Interstate Commerce Commission to make an investigation upon complaint that rates are unreasonable, but when the Commission shall have exhausted all its power under the law as proposed to be amended by this bill, it will still be unable to determine whether the rates complained of are reasonable or unreasonable, except as compared with other existing rates, fixed by the railroads—the reasonableness of which are known only to the railroad company itself. Here the bill stops. It provides no specific method by which it is made the plain duty of the Commission to ascertain the reasonableness of rates based upon all the facts by which its determination will be tested by the court.

I contend, therefore, that preliminary to ascertaining the lawful rate—that is, the reasonable rate—the Commission must, as a basis for its work, know the value of the property of the corporation in question, its cost of operation, and all of the facts necessary to enable it to form a just judgment with respect to what shall constitute a reasonable profit on the investment. Without this the Commission can have no lawful standards with which to compare challenged rates. Without this the Commission is inevitably driven, in any case of complaint, to institute comparisons with other rates fixed by the railroads, having no knowledge whatever with respect to the reasonableness of the rate so selected for comparison. Neither the interstate commerce statute nor this proposed amendment makes any provision whatever under which the Commission is required to master the facts and secure the material for a foundation upon which to erect a standard of lawful or just and reasonable rates. If the statute is to provide no means of ascertaining the reasonable rate, then it were worse than folly to declare an unreasonable rate unlawful. No one will contend that the law of 1887, as amended by the acts of 1889 and 1891, confers specific authority upon the Commission and imposes upon it the duty to ascertain the value of railroad property in accordance with the rule laid down in Smythe *v.* Ames and other cases.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Iowa?

Mr. LA FOLLETTE. I do.

Mr. DOLLIVER. I must confess that my honored friend from Wisconsin, while he has relieved himself from the charge of being discursive, is very far from being conclusive.

Mr. LA FOLLETTE. Well, I have not got through yet by a good deal. [Laughter.]

Mr. DOLLIVER. The Senator paid, in the early part of his speech, a fine tribute to the Interstate Commerce Commission as to their exercise of the powers conferred upon them by the

act of 1887, and has referred to several cases in which the Interstate Commerce Commission has actually reduced rates because they were unreasonable. Now, so far as my knowledge and investigations of this problem go, I do not see how much power the Interstate Commerce Commission would have to establish a standard after they knew the value of the railroad property.

Mr. LA FOLLETTE. I am going to try to make that clear before I get through.

Mr. DOLLIVER. Because all parties agree that in dealing with individual rates we have no method of determining their relation to the cost of the railroads or the total earning of the railroads, certainly no method as to value; and I know of no reason, if you charge the Interstate Commerce Commission with the business of finding out whether a rate is just and reasonable, why they may not go into all these questions just as fully as a court could go into them in passing upon them.

Mr. BAILEY. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. LA FOLLETTE. I do.

Mr. BAILEY. Mr. President, it seems to me that if the railroad commission were first furnished with accurate and reliable information as to the value of the entire railroad, then, measuring all the rates by that, it would be very easy by comparison to determine the value of any particular service or any single rate. If it is not possible to determine the reasonableness of any particular rate or whether any particular rate affords a just compensation, then this bill might as well never have been written, because it authorizes the Commission to do that. If it authorizes and empowers the Commission to perform an impossibility, it seems to me it needs correction along the line which the Senator from Wisconsin [Mr. LA FOLLETTE] is now indicating.

Mr. LA FOLLETTE. Mr. President, the Senator from Texas [Mr. BAILEY] has anticipated much that I should have said in reply to the Senator from Iowa [Mr. DOLLIVER]. I think—I venture to say so again—that before we get through with this proposition it will be made plain that the bill is defective in this particular. It is certain that the Commission—I had just said this when I was interrupted, and I will have to go back and take up the thread of my argument.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Indiana?

Mr. LA FOLLETTE. Yes; I do.

Mr. BEVERIDGE. Does the Senator propose an amendment to the bill to remedy this defect which he alleges is in the bill?

Mr. LA FOLLETTE. I shall offer an amendment. I hope if any better amendment can be drawn, that some other Senator will offer one, but I shall offer an amendment to meet this particular fault in the bill and I hope such an amendment will be adopted. I believe the Senator from Iowa [Mr. DOLLIVER] desires to see this bill a strong and effective measure. If it is made plain to him that such an amendment will add strength and efficiency to this bill, I am very certain he will give it his strong support.

Mr. DOLLIVER. Mr. President, I certainly sympathize with the notion of the Senator from Wisconsin that the Interstate Commerce Commission in passing upon what rates are just and reasonable will be governed by the considerations, in part at least, to which he has referred. For myself I do not doubt that in determining such a question they would deal with it exactly along the line suggested by the decision of the Supreme Court to which the Senator has referred.

Mr. LA FOLLETTE. Yes; Mr. President, but I think I shall be able to make it clear that they can not deal with it in that way without additional legislation. I shall prove to the Senate that the Commission appealed to Congress to give them the legislation under which they could make this valuation of the railroads as necessary to a proper basis of rate making under the decisions.

I have to resume the thread of my discourse. I had said that no one will contend that the law of 1887, as amended by the acts of 1889 and 1891, confers specific authority upon the Commission and imposes upon it the duty to ascertain the value of railroad property in accordance with the rule laid down in Smythe *v.* Ames and other cases.

The law of 1887 and the amendments proposed by this bill will invest the Commission with power to require of the railroads a full report with respect to the valuation of their property. But, Mr. President, that is not sufficient. The Government must not be compelled to accept the railroad company's statement of the value of its property, and stop with that. In addition to the railroad company's valuation the Government must be authorized to make a thorough and complete valuation. There is at the present time no law under which the Government can do that work.

It is certain, I say, that the Commission has never construed the law of 1887 as giving them authority to make a valuation of railroad property; and I say furthermore that Congress has never so construed the law, because Congress has never yet made an appropriation which would enable the Commission to proceed to do that thing. It is equally certain that the pending bill contains no specific provision granting such authority and imposing such a duty upon the Commission.

No one will argue that such an important duty should be left to doubtful construction or to be implied from other powers or obligations.

The bill should be so amended as to make it the duty of the Commission to proceed with this work of valuation, and Congress should make the necessary appropriation to carry it forward promptly. It should not be left optional as to whether this work shall be done or when it shall be done. There must be no obscurity or uncertainty about it. The broadest power should be granted. The employment of engineers, accountants, experts, practical and experienced men in every department of railroad engineering, construction, operation, and accounting should be authorized. The appropriation of whatever sum is necessary to inaugurate and vigorously prosecute this undertaking should be made at this session, and if it be required, it should be made mandatory on the Commission to act at once.

I shall offer an amendment to the pending bill, drawn with a view of giving the Commission full authority and imposing upon it the duty of ascertaining the value of the railway property of the United States, and reporting the progress upon the work at the beginning of each regular session of Congress. If we are desirous of giving the public assurance that Congress has taken hold of this subject with sincerity of purpose, that an intelligent, economic basis is to be established for thoroughly and justly dealing with the great interests involved, we shall embody such a provision in this law.

In its report for 1903 the Commission recommends additional legislation to enable the actual value of railroad property to be ascertained. It says:

> Among the subjects which deserve the attention of Congress is the need of a trustworthy valuation of railway property.

After devoting several pages to a presentation of the reasons which make it imperative to secure this information and the necessity of additional legislation to this end the discussion closes with the following:

> A large number of questions incident to the valuation of railway properties suggest themselves in addition to those which have been mentioned. This report can not, however, enter into further detail. Sufficient has been said to indicate the importance of an authoritative determination of railway values. It is respectfully recommended that Congress take this matter under advisement with a view to such legislative action as may be deemed appropriate.

Respecting the vital importance of ascertaining the reasonableness of rates the Commission in the report of 1903 says:

> To determine what are just and reasonable rates for public carriage is a governmental function of the highest utility. This is the central idea of regulation and the special field of its usefulness.

Oh, Mr. President, in the passing of a bill now to correct the errors of twenty years ago, surely we should not leave out the central idea of regulation.

Respecting the vital importance of ascertaining the value of railway property as the first step in determining the reasonableness of rates, the Commission says further, in the same report:

> No tribunal upon which the duty may be imposed, whether legislative, administrative, or judicial, can pass a satisfactory judgment upon the reasonableness of railway rates without taking into account the value of railway property.

The recent convention of State railway commissioners in this city favored the valuation of the railway property of the country. The Washington Post of April 5 says:

> The resolution offered Tuesday by Commissioner B. H. Meyer, of Wisconsin, declaring it to be the sense of the association that the Congress of the United States should authorize and direct the Interstate Commerce Commission or some other department of the Federal Government to ascertain the *inventory value* of all railways in the United States, and to *fix a valuation* on the railway property of each State separately, was adopted unanimously.

Now, I come to the point to which my friend from Iowa directed attention in one of his questions.

I do not claim that the Commission will be able to determine with *mathematical exactness* the cost of the service in shipping a single article carried with a mass of other freight. The traffic manager can not do that. But I contend that the Commission can ascertain the fair value of the property of the railroads; the cost of the maintenance and operation; the fair profit, interest, or return which it is entitled to receive, and the full amount which it does receive. I contend that upon this

as a basis, giving due consideration to all other material circumstances, the Commission can determine reasonable rates that will afford the carrier "just compensation" for the services performed, and that with this knowledge the Commission would be able to form a *just* judgment—I do not say a mathematically exact determination of the cost, but a just judgment—with respect to a reasonable rate for a single shipment.

I contend that the Commission can in no other way determine a reasonable rate—a rate that is reasonable to the consumer, the man who pays the freight, that it can in no other way determine rates that are certain, if resisted by the railroad, to be sustained by the court.

I go further. I contend that it is the only way in which a fair approximation to justice can possibly be approached. The Government must deal fairly by the railroad, the shipper, the producer, and the consumer. This can not be done by a "first-come-first-served," "catch-as-catch-can" method of attacking a rate here and a rate there, giving a benefit to this man, an advantage to that community, while the railroad is free to recoup by advancing its rates on some other man or some other commodity. Awarding a complainant a rate adjudged to be reasonable, because it more nearly agrees with a rate which the carrier has established for some one else, is giving the complainant *relative* justice instead of *real* justice.

Mr. President, what is to be the result of this "hit-and-miss" method when you come to apply it in practice? Place in the hands of the Commission the power to enforce its orders, but withhold from them the authority and the means to get the actual value of railroad property, and by so doing the just basis for real instead of apparently reasonable rates, and what is almost certain to follow? The railroads must realize that every relatively low rate will at once become the basis by comparison for a complaint to reduce any rate which it can be judged ought to be equally low. They will for self-protection speedily advance the relatively low rates, in order to take away the standards which would be seized upon as a cause for complaint and a basis for the judgment of the Commission in ordering a reduction.

Indeed, so far as the shipper is concerned, this would be quite as satisfactory as an order of the Commission lowering his rate to the level of his more-favored competitor. It is of no concern to the shipper that he secure an absolutely reasonable rate. All he cares for is a relatively reasonable rate. He wants a rate equal to his competitor. He is quite as well satisfied if this be secured through raising his competitor's rate, as by lowering his own rate to the level of the competitor. Once invest the Commission with power to equalize rates and the complaining shipper will not find it necessary to apply to the Commission for equal rates. He will complain to the railroad company as less expensive and more expeditious. He will cite the fact that a competitor has an advantage in rates. The railroad, knowing that if the Commission is appealed to it may adjust the difference by lowering the higher rate, will promptly adjust it by advancing the rate of the competitor. What will the competitor do with this advanced rate? Excepting upon such articles as have a fixed and unvarying price in the trade, the competitor will simply add the increased freight charge to the price and pass it on to the jobber. The jobber will add it to the price to be paid by the retail merchant. The retail merchant will hand it over to the consumer as an added charge to his purchase. As the consumer can not pass it on, he must pay it himself.

If this bill is to have far-reaching results—if it is to protect the *consumer* as well as the shipper—then the foundation must be laid for ascertaining the *reasonable rate;* that is, on the rate which in and of itself *is reasonable.* The system of government regulation which is to have a just regard for the consumer must not be based on the relatively reasonable rate.

The ascertainment of the value of the railroads is the very corner stone of any great and enduring service which this legislation is to accomplish for the people of this country.

STATE VALUATIONS OF RAILROAD PROPERTY.

It can not be said in answer to this demand for a valuation of railway property that such a valuation is impossible or impracticable. In three notable instances such valuations of railway property have been made by States. In these cases every item of material and labor entering into the cost of the roadways and rolling stock of the roads have been enumerated and appraised. These valuations cover every mile of road within the States of Michigan, Wisconsin, and Texas. Obviously, a work that can be undertaken and accomplished by a State for all the lines within its boundaries can be accomplished by the Federal Government for the whole country. Furthermore, any work that is undertaken along this line in the future will have a great advantage in the knowledge obtained from the previous experience of these several States.

MICHIGAN AND WISCONSIN VALUATIONS.

The valuations of Michigan and Wisconsin were made for the purpose of assessment of ad valorem taxes. In each case the determination of physical values and nonphysical values were made separately. In each case the State had the benefit, in arriving at its valuation, of the cooperation of the railway companies themselves. In the Wisconsin valuation the initial appraisement was made by the roads, the State merely making such valuations and determinations as were necessary to verify and correct the valuations as made by the companies.

In the Wisconsin valuation the expense to the railroads was probably less than $11 per mile on the average. The Chicago and Northwestern Company spent an average of about $10.60 per mile on 1,784 miles of line. The average expense to the State for all lines did not exceed $7 per mile. It is safe, therefore, to predict that the total cost to both the Government and the roads of making such a valuation for the whole country, will not exceed $20 per mile, or for the entire mileage of the country considerably less than a total of $5,000,000. This amount, taken in consideration with the magnitude of the public interests depending on such valuation, is not a large sum. Its expenditure ought not to be in any degree a bar to the prosecution of so great and so necessary a public work.

The results of these valuations are an indication of what would be the results of a like valuation of the railway property of the country. So far as I have been informed there has been no protest against these valuations on the part of the railroads, except to contend that the valuations were too high. In the case of the Wisconsin valuation the values placed on the property by the roads were, in nearly every instance, increased by the board of assessment, and in some cases considerably increased.

I believe anyone who has ridden over the lines of Wisconsin or of Michigan will say that upon the average they are the equal of the lines of the country. I know that the two principal roads of Wisconsin, in the matter of curves and double track and ballast and equipment and everything that enters into railroad values, are the equals of the great trunk lines of this country.

The final determination of the average present value, per mile of line, by the States of Wisconsin and Michigan was as follows:

MICHIGAN, 1900.

7,813.27 miles, value per mile $21,396

WISCONSIN, 1903.

6,656.88 miles, value per mile 25,501

MICHIGAN AND WISCONSIN.

14,470.15 miles, value per mile 23,231

It is interesting to compare with the results of the Wisconsin valuation the average capitalized value per mile for a few of the leading companies.

The average value as determined by the company for the Saint Paul lines in the State (1,691 miles) was $26,340 per mile, and as finally fixed by the State, $30,004. The capitalization amounted at the same time to $33,321 per mile.

The company's valuation of the Omaha lines (737 miles) was $26,639 per mile, and the State placed it finally at $27,464. At the same time the floating capitalization was equal to $44,649 on the entire line (1,521 miles).

The average value of the Chicago and Northwestern road in Wisconsin (1,784 miles) as appraised by the railroad engineers was $25,382; as finally determined by the board of assessors, $29,063. The average capital per mile of this road for the year ending June 30, 1904 (which practically coincides with the time of the appraisement), was $32,180.

The Wisconsin Central appraised its property, three-fourths (723 miles) of which is in Wisconsin, at an average of *$19,930* per mile. This valuation was increased by the State board to *$22,711* per mile. The capitalization of this road per mile was *$58,275*, or about three times as much as its own valuation and over *250 per cent of its value*, as *determined by the State board.*

To the appraised values of the railway property, there were added for taxation certain amounts to cover franchises, and the value of the property as an organized, going concern. But these additions would not properly be considered in determining a valuation for fixing rates.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Nevada?

Mr. LA FOLLETTE. Certainly.

Mr. NEWLANDS. I wish to ask whether the valuation was made for taxation or for the purpose of regulating rates.

Mr. LA FOLLETTE. It was made for taxation. I shall later call attention to the basis of the capitalization per mile upon which the railroads have assessed rates to the people of Wisconsin for the last twenty-eight or twenty-nine years.

Mr. NEWLANDS. I wish to ask the Senator whether he contends that the franchise should be valued as a part of the property of the corporation for purposes of taxation and should not be considered in the determination of rates. Did I understand him so to contend?

Mr. LA FOLLETTE. As I shall presently show, there is a broad distinction upon economic principle to be made between the valuation of property for taxation and the valuation of the property of a public carrier for fixing rates.

Mr. NEWLANDS. And that one might include the value of the franchise and the other not?

Mr. LA FOLLETTE. Yes, sir. Of course I will say in reply that it might be contended by a corporation that they ought to be allowed something for the franchise where they have "paid something to get it."

I recall one notable instance, the case of a street car company in Philadelphia, I believe, where the common council was about to vote the franchise to the street car company "for nothing." A protest went up from the citizens, and finally Mr. Wanamaker, I believe, wrote out his check for two and a half million dollars and sent it to the common council, saying, "Do not give this franchise away to the corporation. It is worth a good deal to the public. Make the corporation pay for it. I am not a railroad man and am not in the street-car business, but as an earnest of my belief that public franchises are worth something and ought to be paid for when they are secured by public-service corporations I tender my check for two and a half million dollars," I think it was. "Give me the franchise. I can turn it over to some corporation and make a good commercial transaction out of it."

I believe history records that the common council sent him back his check; did not sell him the franchise, but voted it to the public-service corporation "for nothing," at least, so far as is known. There might be cases, of course——

Mr. NEWLANDS. I do not believe for a moment that the value of the franchise ought to be considered in determining rates; but I am at a loss to know how it can be that it is not to be regarded as of value in the determination of rates and yet can be assessed for purposes of taxation. It strikes me that the true rule and the just rule would be to exclude it from consideration in the determination of both rates and taxes.

Mr. LA FOLLETTE. I shall hope to recur to this subject again before I conclude my argument. For the present, if agreeable to the Senate, I will proceed for a little time, and then I shall ask that I may be permitted to discontinue for the day and continue my remarks on Monday.

It is a curious fact in railway conditions that the roads having the least value often have the greatest capitalizations. Capitalization merely reflects the policy of a particular management, or, more correctly, the series of managements through whose hands the road may have passed. It is quite apparent from these few Wisconsin examples that capitalization has no relation whatever to true value or investment.

It can not be objected that the foregoing valuations of railway property, embracing only the cost of the physical property, is not a sufficient basis for determining the value of the property on which the roads would be entitled to earn a profit. It may be cited that certain nonphysical elements of railway value should be added in determining the valuation on which profits are to be allowed, just as such additions were made to the physical valuations in Michigan and Wisconsin to determine a basis for taxation. A moment's reflection and consideration of the nature of these elements of nonphysical value will show that this contention is unsound.

General property is taxed, on the ad valorem basis, according to an assessment on its market value. It is obvious, therefore, that in order to tax railroad property on the same basis as general property a determination of all the factors entering into its commercial value must be had. It is perfectly clear that certain *nonphysical elements*, such as *franchise* and *earning power*, enter into this *commercial value*, and in determining a valuation for purposes of taxation an allowance for these elements is entirely proper.

But in determining a value on which profits are to be allowed this is not the case. The determination of these nonphysical values for the Michigan valuation was made by Mr. H. C. Adams, of Michigan University, and statistician of the Interstate Commerce Commission. The bases of this valuation have been made public. While the method of this determination is somewhat involved, it is based in the final analysis on the amount of the net earnings which the carrier is earning over and above 4 per cent on the value of the physical property. In other words, the nonphysical value of railroad property is, in the last analysis, the value of its power to charge excessive rates for transportation. It is quite obvious that this value can not properly be included in a valuation made as a basis for determining reasonable rates.

Furthermore, a consideration of all the elements on which a nonphysical value can be based, as enumerated by Mr. Adams in his work, does not reveal any element entering into such valuation which is in any sense an investment on which the carrier has a right to demand a profit.

TEXAS RAILWAY VALUATION.

The valuation of railway property by the State of Texas possesses a particular interest because its primary purpose was the regulation of railroad capitalization and charges. The constitution of the State of Texas, as well as particular statutory enactments, prohibit fictitious railway capitalization. The railroad commission law of that State provides that the commission shall "ascertain, and in writing report to the secretary of state, the value of each railroad in this State, including all its franchises, appurtenances, and property."

The Hon. John H. Reagan, chairman of the railroad commission of Texas, testifying before the industrial commission, described the work of the commission in valuing the Texas railroads. The investigations of the commission as to the cost of the many items entering into the roads was most thorough and comprehensive. Liberal allowances were made to cover the cost of procuring franchises and defraying the expenses of engineering, as well as to cover interest on the investment during the time of construction. When the valuation was finally determined, it was noticed to the several companies and forty days' time given in which such valuation might be contested. Said Mr. Reagan:

> We have done this in every case of valuation, and not one of our valuations of all the railroads of Texas has been contested. By our plan of valuation, if contested, we could ask what item in it was complained of, and from our files show the proof on which it was based.

Under this valuation the value of all the railroads of Texas constructed prior to 1893 had been, at the time of Mr. Reagan's testimony, finally determined by the commission. The average value per mile of all these roads was $15,759. The aggregate value of all the roads so valued amounted on the 30th of June, 1899, to $141,157,176. The aggregate capitalization of the railroad companies, stocks and bonds, was $362,953,383, or more than two and one-half times the actual value. (This excessive capitalization was created prior to the passage of the stock and bond law, 1893.)

I say the actual value, because when these companies were served with a notice that this valuation of a little over $15,000 a mile had been fixed for each mile of their road in that State, and when they knew that that valuation was to be made the basis of the rates which they were to be permitted to collect on the traffic of that State, they never appeared to contest the valuation. So it may be accepted, it seems to me, as an admission on the part of the railroads that up to that time it was a fair valuation of their property within the State of Texas.

Since the date of this valuation considerable improvements have been made on the old lines. A liberal estimate of the cost of these improvements, by the engineer of the commission, is from $4,000 to $8,000 per mile. These roads are fairly representative as to cost for railroads generally in the Southwest. And it is safe to say that the average actual cost of all the roads in that section did not exceed $25,000 per mile, and in fact was probably very much less.

In valuing new roads at the present time the policy of the commission is a very liberal one, so that the present valuation is almost without exception in excess of the actual cost of the road. A new road recently valued comprises 300 miles of one of the principal lines of the International and Great Northern Railroad Company. This piece of railroad is in every respect modern, and the grade has been reduced to the maximum of three-tenths of 1 per cent, and the road will carry the heaviest equipment. With heavy grading and the usual number of bridges and culverts, the actual cost of constructing and equipping this road with the best modern equipment was from $25,000 to $27,000 per mile.

Will it be said that this policy of ascertaining the physical value of all railway property of the United States will be *too expensive?* Governments, like individuals, may be penny wise and pound foolish. The Senate voted at this session to spend $2,600,000 a year for ship subsidies. Shall we hesitate to provide all that is necessary to place the regulation of railways on a solid foundation, and to lift the great burden of extortionate charge from the consumer.

In the creation of a railroad commission and tax commission in Wisconsin, and in the effort to compel the railroads to pay their proportionate taxes, there was the constant objection of the expense. But the results have already saved thousands of dollars where one has been expended. And what has been

already saved is small in comparison with what will follow from the exercise of the power of the State vested in a commission to protect the citizens of Wisconsin from overcharges and favoritism to persons and places.

Mr. President, in concluding upon this branch of the subject I will venture to say that the question will never be settled in this country until it is settled upon a basis of the fair valuation of the railroad property of the country. I believe that we should start now and start right in clothing this Commission with full authority to ascertain this basis for establishing reasonable rates.

I will now yield the floor with the hope that I may conclude my remarks on Monday.

Monday, April 23, 1906.

Mr. LA FOLLETTE. Mr. President, when I surrendered the floor on Friday afternoon I had brought the discussion up to the point of a consideration of existing rates. I think I had shown that rates which are really *reasonable* rates can not be established and enforced without first ascertaining the true value of the property of the railroads as a basis for fixing the reasonable rates which will yield a fair return upon the property of the railroad company.

I now propose to show, sir, that railway rates in this country are at the present time excessive.

I know it is urged on all sides that rates are reasonable; that no reductions of importance will be necessary under any law which we may enact; that the important consideration for this body is to frame legislation that will insure equality of rates rather than reasonable rates; that no reductions of importance being required, there will be no necessity for a provision in this bill for the valuation of railway property and no necessity of expending the money and the labor necessary to secure that valuation.

The President has been quoted as saying in at least one public address that "there has been comparatively little complaint to me of the railroad rates being actually too high." Members of the Commission have been quoted as saying that complaint is made against unequal rather than against unreasonable rates, and Senators upon both sides of this debate have repeatedly declared that there is little complaint as to unreasonable rates, but that the chief complaint is against discrimination. Granting this, it establishes nothing except the wide prevalence of complaint as to unjust discrimination. It does not seem to have occurred to anybody that this proves nothing with respect to the reasonableness of existing rates.

Can anyone fail to see that there is small chance for the public to know whether rates are reasonable or extortionate? The whole matter is in the hands of the carriers. They have the facts upon which to predicate any approach to exact knowledge. If anyone knows the actual value of their property, they know it. They know the actual cost of operation, and they make the rate without check or hindrance. Is there any reason to suppose that they do not charge all the traffic will bear?

We have complaints on all sides of discriminations in violation of law and at the risk of heavy penalties. The railroads can make rates unreasonably high without fear of any punishment. Is it to be believed that they are guilty of violating the law against discrimination by rebates and otherwise, risking all the penalties it imposes, and that they fail to charge all the traffic can bear when there is not the slightest danger of punishment for so doing?

Ah, but why, then, is it that we have complaint of discrimination in almost every community, and no complaints of unreasonably high charges? It seems to me that the reason is so obvious as scarcely to require statement. There is a standard of comparison in one case. There is none in the other. Complaint is made of discriminations because the rate paid in one instance can be compared with the rate paid in another. There is some basis for comparison, and strong incentive for complaint. But what standard have we for comparison by which to test the question whether rates are too high? What information has the shipper, the producer, the consumer, upon which to base complaint? He does not know what profit the carrier is making. All of the facts essential to form a judgment and lodge a complaint are beyond his reach. Because he formulates no complaint, prosecutes no action, proves neither that he is satisfied nor that he is without cause for complaint.

Give the public some criterion, based upon the rules laid down by the Supreme Court, then it will know whether its rate is just and reasonable, then it will be prepared to resist wrong. Make it the bounden duty of this Commission, arm it with full authority, furnish it ample assistance and money necessary to ascertain the actual value of railroad property, the actual cost of operation, and all the facts upon which to base a standard of reasonable rates. If complaints do not follow, it will then mean something when the President, the Commission, or anybody else says that there are "few complaints with respect to high rates."

But, Mr. President, I venture to say that rates are unreasonably high, and that if the opportunity is ever presented to ascertain the value of railroad property, it will result in markedly reducing transportation charges generally throughout the country. Before offering the direct evidence that rates have enormously advanced throughout the country in the last few years I wish to offer some significant testimony, dating from the Granger legislation.

Illinois established a warehouse and railway commission with authority to fix maximum rates in 1873. The commission appointed under this law established and has maintained a schedule of transportation charges. Iowa, in 1888, enacted a law creating a commission authorized to make rates. This commission promulgated a complete schedule of railway charges for that State. No effort has ever been made to amend this legislation, and the railway companies have acquiesced in the rates established by the commission. Under the law the carriers could have gone into court in Illinois or Iowa, attacked and set aside the rates fixed by these two commissions, if it had been possible for them to make it appear that such rates were unreasonable and that they did not afford just compensation for the services rendered. That the rates established by this commission have stood unchallenged by the railroad companies in both States through all the years, must be taken as an admission on the part of the railroads that the rates are not open to complaint on their part.

Wisconsin lies immediately north of Illinois and east of Iowa. In 1874 a law was enacted in Wisconsin fixing maximum rates and creating a commission authorized to make changes in the same from time to time. Two years later the railroads secured control of the legislature and repealed that law. From that time until 1905, or for a period of twenty-nine years, these corporations have been powerful enough to defeat all legislation to regulate transportation charges in that State. We have, therefore, an opportunity to compare rates in Wisconsin, where the railroads have controlled for twenty-nine years, with rates in Illinois and Iowa, where they have been controlled and established by State authority. This comparison offers, therefore, I submit, a most excellent test as to whether railroad companies may be trusted, when left without supervision and control, to make rates with due regard to the public interests.

The two principal railroads in Wisconsin are the Chicago and Northwestern and the Chicago, Milwaukee and St. Paul. These railway lines likewise run through the States of Illinois and Iowa. With a view to instituting comparison between the railroad-made rates of Wisconsin and the State-made rates of Illinois and Iowa I arranged all the stations on the St. Paul road and all the stations on the Northwestern road in Wisconsin in tables, showing the number of miles to each station from the principal market. From the published schedules of the railroad companies I obtained and placed in the tables opposite the name of each station the cost of shipping in and out every class and kind of freight, whether in carload lots or less than carload lots, including commodity rates, between each station and its principal market within the State. I then placed side by side with the Wisconsin rates, Iowa rates, fixed by the Iowa commission, for the shipment, in like manner of an equal quantity of the same kind of freight the same distance in that State. The rates for a like number of stations in Illinois equally distant from market in each case with the Iowa and Wisconsin stations were next obtained and incorporated into the table.

I was then in a position to ascertain the exact difference between the so-called "reasonable rates" established for Wisconsin by the railroads without State regulation with the reasonable rates established under State control in Iowa and Illinois. The comparison thus worked out clearly demonstrated that the railroad companies were exacting from the people of Wisconsin from 20 to nearly 70 per cent higher rates than they received in Iowa and Illinois for a like and equal service. I may add that the rates in Illinois have been considerably reduced by the commission of that State since these comparisons were made, as is shown by the following telegram recently received in response to an inquiry which I addressed to Governor Deneen:

SPRINGFIELD, ILL., *April 1, 1906.*

Hon. R. M. LA FOLLETTE,
Washington, D. C.:

Twenty per cent reduction was made on first five classes on December 5, 1905, went into effect on January 1, 1906. No railroad has appealed to the courts against it. Commission has under consideration question as to whether reduction should be made in remaining five classes.

CHARLES S. DENEEN.

So Senators will see that in view of the reduction recently made in the Illinois rates, as stated by Governor Deneen, it is clearly manifest that the Illinois rates, with which I instituted comparison, in 1903, were themselves above the reasonable rate level. Furthermore, it should be borne in mind that the Iowa rates were instituted as maximum reasonable rates in 1888, and since that time there has been no substantial reduction. But there have been enormous increases in the traffic and in the carrying efficiency of the roads which naturally result from the industrial development of a great and rapidly growing State like Iowa. As a consequence of these changes, the cost of handling the traffic has decreased, and rates that yielded a fair profit in 1888 yielded more than a fair profit in 1903, when I used these rates as a standard of comparison to test the reasonableness of rates in Wisconsin. Notwithstanding the fact, Mr. President, that the Illinois and Iowa rates were without doubt higher than a reasonable standard, the Wisconsin rates, over which there was no State control, were higher than the Illinois and Iowa rates by 20 to 70 per cent.

Whether the rates in Iowa and Illinois are reasonable in themselves is known only to the railroad companies in those States. Neither the commission of Iowa nor the commission of Illinois ascertained the value of the railroad property of their respective States, thus establishing a basis upon which to fix rates reasonable *per se*. As before stated, that they are, on the whole, considerably above the reasonable rate line, may be safely assumed; otherwise the railroads would have brought action to set them aside as not offering just compensation for the services performed.

I have cited these comparisons because they prove conclusively that it is never safe to assume that the railroads uncontrolled make reasonable rates.

It might have been possible to furnish proof that the railroad-made rates of Wisconsin were unreasonably high without going into the other States for comparison. But few States in the Union are more richly endowed than Wisconsin with magnificent water powers. With her splendid waterways well distributed over the State, her wealth of raw material for diversified manufacturing near at hand, her factories would naturally be so located as to utilize the free power furnished by nature.

But with the defeat of all effort to reestablish State control of railway rates, the only check upon excessive transportation charges for the whole Commonwealth is that afforded by the water transportation of the Great Lakes system. Nineteen of the seventy-two counties of Wisconsin border upon Lakes Michigan and Superior. For three hundred miles along her lake shore many splendid natural harbors offer water communication with the outside markets. Along the lake shore, through these nineteen counties, the railroad rates have always responded to water competition, and rule much lower than rates in the interior of the State. It is a significant fact that more than seventy per cent of the capital invested in manufacturing in Wisconsin is located in the nineteen counties situated on Lakes Michigan and Superior. Except for the fact that water transportation influences to their advantage freight charges by rail, these nineteen counties afford no better location for manufacturing plants than most of the other counties of the State, where are located the abundant supplies of raw materials and magnificent water powers. Indeed, many excellent water powers have been abandoned and hundreds left undeveloped because the high freight rates in the interior have forced nearly three-quarters of the manufacturing into a little more than one-fourth of the lake shore counties of the State.

Mr. President, there is no warrant for the belief that people of the country are, upon the whole, enjoying reasonable rates. This view has been skillfully engrafted upon the credulous public. But, sir, the known facts demonstrate its falsity. The Supreme Court has determined that the carrier is entitled to a *fair profit*, based upon a *fair valuation* of his property. Is this the basis upon which the railroads fix their charges to-day? By no means.

No one will deny that, at the outset, they bond and stock their properties away in *excess* of a fair value. Then they tax transportation to pay a "*fair return*" on this *inflated* value. From that time forward, as rapidly as the traffic can possibly bear the burden, additional stocks and bonds are issued without additional investment, and transportation is further taxed to pay a "fair return" upon this added inflation. Again and again this process is repeated. It is an endless-chain system.

I again offer a specific illustration furnished by recent history in Wisconsin of the imposition of excessive charges for transportation by railroads. It happened that while the State was making an effort to ascertain the fair value of railway property, for the purpose of enforcing the just taxation of such property, it was at the same time prosecuting an investigation of *transportation charges* and railway earnings as a basis for legislation to regulate rates.

The average annual net earnings for the Chicago and Northwestern Railway Company on its Wisconsin traffic, as stated in its official report to the State, amounted to $3,919 per mile. The net earnings thus amount to a 6 per cent income on $65,317 per mile. In other words, the people of Wisconsin were paying *freight charges which netted the Northwestern Railway Company 6 per cent on $65,317 a mile.* The State board of assessment, authorized by statute to ascertain the value of the railroad property of the State as a basis for taxation, notified the Northwestern Railway Company to submit the valuation of its property to such board. This it did.

The *fair valuation* of the property of the Northwestern Railway Company in Wisconsin was thus shown *by the corporation to amount to $25,382 per mile.*

The average net earnings for the St. Paul Railway Company in Wisconsin for the same period amounts to 6 per cent on $62,633 per mile. Wisconsin traffic was therefore charged at *a rate high enough to produce a net income upon $62,633 per mile.* This company, when called upon by the board of assessment to furnish the true value of its property for taxation, submitted such statement, by which the road *proved the value of its property in the State to be $26,340 per mile.*

Mr. President, nothing could be more conclusive as evidence of the fact that railroads are charging the people rates high enough to pay interest and dividends on more than twice the fair value of their property.

TRANSPORTATION CHARGES ADVANCING.

With the carriers free from any governmental supervision of their charges, and with all restraints of competition eliminated by combination, the natural and inevitable result is the *advance of transportation charges* to the public. The experience of the past few years *shows* how *unwise* it is, in the absence of these positive *restraints*, to rely upon the *railroads* to *interpret* the "laws of business" in the interests of the country and the industrial development of the communities which they serve.

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Indiana?

Mr. BEVERIDGE. Will the Senator from Wisconsin permit me to ask him a question?

Mr. LA FOLLETTE. Yes.

Mr. BEVERIDGE. Were these railroads actually capitalized up to sixty-two or sixty-five thousand dollars a mile?

Mr. LA FOLLETTE. No, they were not in this particular instance—that is, two were not—but they were capitalized some thousands of dollars per mile more than they gave as their true value. Another road in Wisconsin was capitalized at nearly the sum mentioned. I simply used that illustration in this connection to show to the Senate and the country, taking these two leading roads of Wisconsin, that it is never safe to trust the railroads to fix reasonable rates.

Mr. BEVERIDGE. I understand that point. But the point to which my mind was going was that made by the Senator immediately preceding this, to wit, that here there had been the issuance by a railroad company of stocks and bonds beyond anything that justified it, as the Senator said, and then the assessment of rates to pay dividends upon that overcapitalization.

Mr. LA FOLLETTE. Yes.

Mr. BEVERIDGE. Assuming that to be true, has the Senator thought out any remedy for it? That is to say, suppose a railroad company has issued stock far beyond what it should have issued, far beyond the value of the road; that those stocks are bought by the innocent public, by innocent holders, and are held by them as an investment, and that in order to pay dividends upon those stocks the railroad charges what the Senator claims are excessive rates. Has the Senator thought out any remedy for that situation?

Mr. LA FOLLETTE. I think as I progress in this discussion it will be apparent to my friend, the Senator from Indiana, what the real remedy is so far as all the people of this country are concerned.

Mr. BEVERIDGE. I did not mean to anticipate the Senator.

Mr. LA FOLLETTE. No; I understand.

Mr. BEVERIDGE. I think every person who has given any attention at all to the question of overcapitalization and the assessment of charges to pay dividends upon the overcapitalization has been confronted at the very outset by the difficulty which is presented by the fact that the securities are held by an innocent public on the one hand, and on the other hand the innocent public are paying the overcharges. I thought perhaps the Senator had thought out a remedy for that.

Mr. LA FOLLETTE. I think, if I may anticipate in just a

sentence what I intend to say a little more fully later on, the Supreme Court has suggested an answer to the question of my distinguished friend from Indiana, and that is this: If a railroad line has had issued bonds and stocks away in excess of the investment of the fair value of the property, the public can not justly be taxed to pay dividends upon stock and interest upon bonds thus issued. In other words, the old rule that puts every man when he makes a purchase upon his inquiry as to the value of the property he purchases requires that the man buying stocks and bonds shall know whether there is back of those stocks and bonds in which he invests his money that value which is specified on their face.

Mr. BEVERIDGE. If the Senator will permit me further, it would strike me right here that in the matter of fixing railway rates would come the question of just compensation, or even of confiscation.

Mr. TILLMAN. We are interested in this discussion, and I suggest that the Senator from Indiana raise his voice a little.

Mr. BEVERIDGE. I will.

Mr. TILLMAN. And that he change his position so that his voice will be sidewise to us instead of his back being to us. We should like to hear what he is saying.

Mr. BEVERIDGE. I was addressing the Senator from Wisconsin. However, I will try to comply with the suggestion of the Senator from South Carolina.

Suppose that here is the overcapitalization to which the Senator refers, and rates are based upon it in order to pay dividends upon that capitalization. This overcapitalization has been absorbed by the innocent purchasing public. Upon the theory that the railroads should charge rates which would pay a fair return upon the actual just value of the road no dividends whatever would be paid upon the overcapitalization. Therefore, when such rates were fixed, the road would at once say "this is the taking of property without just compensation." That is the point to which I wish to direct the Senator's attention.

Mr. LA FOLLETTE. In response to that question the Supreme Court would say, as it has said heretofore, that it is not required of the public to pay dividends and interest on water, no matter who owns it, but that it shall pay dividends and interest on the fair value of the property, and nothing more. The Supreme Court has said that if any railroad company has issued stock and bonds in excess of the fair value of its property it must suffer, and those who hold the stock and bonds must suffer the consequences of such action; that it is unjust to impose that burden upon the public. If railroad companies are to be permitted to issue stocks and bonds without limit, if there is to be no restriction whatever, and none has been imposed except in the State of Texas, so far as I am advised——

Mr. DOLLIVER. And Massachusetts.

Mr. LA FOLLETTE. Massachusetts; yes. There is State regulation in Massachusetts, but with these exceptions the directors of a railroad company may, without any limitation whatever, burden the public with transportation charges to pay interest and dividends, not upon capital invested in the business of transportation, but upon any figure they choose to put upon the paper certificates they issue.

Mr. MALLORY. May I ask the Senator from Wisconsin a question?

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Florida?

Mr. LA FOLLETTE. I do.

Mr. MALLORY. I understood the Senator, a while ago, to refer to the case of a reduction of 20 per cent in the rates on certain classes of freight in Illinois. Was that contested?

Mr. LA FOLLETTE. No; and I am informed by Governor Deneen that there has been no intimation on the part of the railroad companies that they would go into court and contest this further reduction of rates in Illinois.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Nevada?

Mr. LA FOLLETTE. Certainly.

Mr. NEWLANDS. In considering the question as to the attitude of innocent purchasers of overcapitalized stocks to this question, does not the fact that thus far Congress has been absolutely apathetic and indifferent as to legislation upon this subject, and whilst it has had the power, has never yet taken steps to check overcapitalization, prevent us from legislating in such a way as to deprive these innocent purchasers of overcapitalized stock of revenue upon their investment?

In this connection let me suggest to the Senator further, that the Supreme Court, in laying down the rule which shall govern regulating bodies in the determination of rates, has announced that the right of the corporation is to have a fair return upon a fair valuation of its property. But in treating of the question of valuation the Supreme Court has indicated, in Smyth *v.* Ames, that the Commission can take into consideration not only the mere cost of reproduction, but can also take into consideration the amount of stocks and bonds issued, and can also take into consideration the income received by the corporation from the existing rates. It indicates that these things ought to be considered, and that many other things might be considered in reaching a valuation.

Will the Senator bear with me a moment longer? I think this is a very important question, and I am quite in sympathy with his general view. I believe we should have a valuation of the railways, and I believe the railroad companies should be confined in the future to a fixed percentage upon that valuation; and I believe if we can only have a fair valuation now, even if it includes these excessive issues, even if it is a valuation based upon excessive rates, if we can have a starting point now and protect ourselves against overcapitalization in the future, we will do a great service to the entire country.

But we should bear in mind, upon this question of capitalization, that the total capitalization of all the roads in the country, in bonds and stocks, is about six billions and a half in bonds and six billions and a half in stock, and that that is approximately in bonds per mile a little over $30,000 and in stock per mile a little over $30,000. If the valuation in all of the States is based upon the cost of reproduction, it means that the value of all the roads of the country will be put at just about the amount of the existing bonds, namely, six billions and a half, and then, if we should allow the roads a fair rate of interest upon the $6,000,000,000, sufficient to pay the interest upon the bonds, there would be hardly anything, perhaps nothing, left to the stockholders. Can we contemplate the entire obliteration of 6,000,000,000 of stock throughout the entire country, and turn over these roads to the bondholders, and would not the readjustments created by a destruction of those great values be more serious in consequences than the reduction of rates would be a benefaction to the country?

There is just another suggestion, and that is when these railroads were started, what rate of interest would we have allowed had we limited the return by law? Probably 10 per cent, as we did in the case of the Union Pacific Railroad.

Now, 10 per cent upon $6,000,000,000, the actual cost of reproducing these roads, would yield just $600,000,000 net, and that is the amount that all the railroads now realize, after the payment of operating expenses and taxes. It would be entirely fair to value these roads at the absolute cost of reproduction, if we allow them the rates of interest prevailing at the time the enterprises were inaugurated, and if that were 10 per cent, it would yield these companies $600,000,000 annually, just as it does now, and 10 per cent paid upon $6,000,000,000 of valuation would immediately make the market value about $12,000,000,000, which is approximately the present capitalization in bonds and stocks of all the railroads of the country.

The value of all these securities is based upon the prevailing rates of interest. To-day if a share of stock, representing $100 par value, receives dividends at the rate of 10 per cent it immediately doubles in its market value to $200, whereas thirty years ago 10 per cent would simply have held the stock at par.

I will state that I have put in an amendment for the valuation of roads, and I believe in it, for the cost of reproduction is a factor in the determination of rates. Yet the Interstate Commerce Commission, it seems to me, following this rule laid down in Smyth *v.* Ames, should have some regard to the actual value of bonds and stocks and should have regard to the high rates of interest prevailing when these enterprises were inaugurated and should value the roads at approximately the market value of the stocks and bonds and, taking that as a basis, fix the future rate of interest so low—say, 4 or 5 per cent—as to give the entire country the benefit of the gradual reduction of rates resulting from the large increase in the business which is certain to occur.

Mr. LA FOLLETTE. Mr. President, I will endeavor to recall the question my friend the Senator from Nevada propounded at the beginning of his remarks, which bears upon the rights of the "innocent purchaser." I will say, with reference to that question, I know of no reason, sir, why a different rule should be applied to the man who purchases railway stocks or railway bonds than the rule which is applied to every man who makes a purchase of any kind of property in this country. Any man who purchases other kinds of property, if he goes into court to contend that he has paid more than that property is worth, is confronted with the rule of law that he who buys must inquire as to the value of the property he buys.

Railway stocks and bonds are purchased for the purposes of

speculation quite largely. There is always the element of speculation in the investment which induces the purchaser to take some chances. Is there any reason why the men who invest in railway stocks should have applied to them and to their investments a different rule than the man who purchases a farm or a horse or any other piece of property? That would certainly be very unjust.

I say, therefore, that those who hold railway stocks and bonds in the United States to-day hold them under the rule of law which requires them to know that they have invested their money in property which is worth the purchase price.

Mr. MONEY. Will the Senator permit me to interrupt him?

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Mississippi?

Mr. LA FOLLETTE. I do, sir.

Mr. MONEY. Sympathizing entirely with the Senator from Wisconsin, I should like to ask him a question right at this point. Has Congress or the legislature any authority to make any inquiry into the value of the road except for the purpose of one of two things—one to fix the rate of taxation and the other to fix the rate of tariff for carriage? If Congress should undertake to investigate that subject with any view whatever of protecting the investor in railway stocks and bonds and investments in their property, has Congress any authority whatever to do it?

Mr. LA FOLLETTE. Most assuredly not. And no government has either the legal or the moral right to impose upon its people the payment of transportation charges upon any other basis than that suggested by the interrogatory of the Senator from Mississippi—the fair value of the property of the carrier.

When the opposition raise the question of the confiscation of watered stocks and bonds, I remind them that every dollar taken from the people who pay the freight which goes to pay interest and dividends on overcapitalization, is taking exactly that much more than "just compensation" for the transportation service, and is a confiscation of the money—that is, the property—of the people, the innocent public who are thus overtaxed on transportation.

I now remember that I did not answer one question asked by the Senator from Nevada [Mr. NEWLANDS]. He asks, If Congress has heretofore neglected its duty in respect to this matter, are we not committed to policies which have been pursued by other Congresses? That is, if Congress in the past has failed in its duty to the public, are we not, therefore, bound to continue to impose burdens on the generations to come? Are we not bound to follow the bad precedent of violation of public trust? I say no, sir; most positively no.

We have a duty——

Mr. NEWLANDS. Mr. President——

Mr. LA FOLLETTE. I beg the Senator's pardon. We have a duty to perform, a present duty. We should faithfully execute the public trust for those who have commissioned us to protect their interests without respect to the violations of obligation of which any preceding Congress may have been guilty.

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Nevada?

Mr. LA FOLLETTE. I do, sir.

Mr. NEWLANDS. The Senator from Wisconsin has misapprehended me if he thinks I claim that we are committed at all to the policy which has hitherto prevailed. My query was as to values built up in this country in the market on an income of these railroads permitted by Congress when it had the regulating power, and those values now in the hands of innocent purchasers, people who had nothing whatever to do with the overcapitalization, whether that does not constitute a consideration which would prevent us from taking action that would absolutely obliterate the $6,000,000,000 of value in this country so held.

Mr. MONEY. They are not values.

Mr. LA FOLLETTE. I will simply say in answer, as suggested by the Senator from Mississippi, that they are not values, and that the people who made the purchases were bound to know whether they were buying water or buying property of value.

Mr. NEWLANDS. Yes; but the Senator——

Mr. LA FOLLETTE. I am very anxious to conclude to-day, if I can.

Mr. NEWLANDS. I will take only a second.

The VICE-PRESIDENT. Does the Senator from Wisconsin yield further to the Senator from Nevada?

Mr. LA FOLLETTE. I do, sir.

Mr. NEWLANDS. I am not talking now about the par value of the overcapitalized stock, but the market values, and the Senator must recollect that these values are built up and based on the revenues of the companies; that the companies enjoy their revenue from rates, and that these rates have been fixed by these common carriers with the sanction or permission or as the result of the inaction of Congress. We gave them the right, in the first place, to fix their own rates and placed no restriction upon their charges, and we never yet have exercised the absolute power of fixing rates. So the rates were rates fixed under the law and the income had its basis upon lawful rates, even though they might have been excessive, and the present market value is based on such income.

Mr. LA FOLLETTE. Mr. President, the income did not have its basis upon lawful rates. An unreasonable or excessive rate has always been an unlawful rate. Without any action upon the part of Congress, every unreasonable rate at common law was an unlawful rate. Because these corporations may have been able to prevent Congress, derelict in its duty, from enacting legislation which would protect the public against extortion, are we forever to continue giving sanction and approval to the great wrong? I say, Mr. President, that the market value of the water in securities represents the power to charge extortionate rates to the public, and nothing more. There can be no "innocent purchaser" of a share in the proceeds of this unjust and unlawful extortion.

No, sir. If we undertake to follow such a precedent as that I venture to suggest to my friend that there will come a Senate and a House of Representatives commissioned directly from the people who will better represent the public interest.

Mr. President, I was just saying when interrupted that the experience of the past few years shows how unwise it is in the absence of these positive restraints to rely upon the railroads to interpret the "laws of business" in the interest of the country and the industrial development of the communities which they serve.

The menace of combination of carriers has been called to the attention of Congress by the Interstate Commerce Commission from the beginning. The advances in rates were predicted, and when they were made they were announced by the Commission. The report of the Commission for 1900 contained the following warning:

> It is idle to say that freight rates can not be advanced. During the past year they have been, by concerted action upon a vast volume of traffic, advanced in every part of the country. It is equally idle to say that they will not be advanced. It is both human nature and the lesson of history that unlimited power induces misuse of that power.

Again, in its report to Congress in 1903, the Commission said:

> One of the most significant things in recent railway operation is the steady advance of the cost of transportation of freight by rail. A few years ago the impression was general that freight rates could not, and would not, be advanced. Railway traffic officials frequently affirmed this in testimony. When the Commission had under consideration certain consolidations of railway property, the eminent gentleman who brought them about stated, under oath, that the purpose was not to advance, but rather to reduce rates. Recent history belies these predictions.

This statement was followed in the report by specific statements of these advances in rates. It was pointed out that in a few instances class rates had been advanced so as to be higher than ever before in the history of the Commission. To quote the Commission:

> The rates upon those commodities that constitute the bulk of interstate traffic have been advanced in nearly all sections. Coal rates have almost without exception been increased. The same is true of iron schedules. Rates upon grain and its products, lumber, live stock and its products are generally higher to-day than four years ago.

Advances had been effected by the advance of hundreds of important commodities in the classification and also by the classification and also by the classification of traffic formerly given reduced commodity rates.

In the evidence taken before the committees of Congress there is a great body of complaint against such advances in rates. In all this complaint there is the underlying idea that the rates are advanced to the point of unreasonableness. Of course the complainant is not in a position to prove that rates are in fact unreasonable because Congress has never provided for a valuation of railway property. When that is done these people will demonstrate that their rates are unjustly high. The conditions represented, however, merit the consideration of those who have not yet heard any complaint of rates unreasonable per se. These complaints represent, among others, the great agricultural interests of the Central States, the great cattle interests of the West, the great lumber interests of the South, and the great paramount interest of the whole consuming public.

The advances in rates are in force in every section of the country. They are in force on nearly every important article of freight shipment. Many of them were put in force through advances of articles in the classifications. Of the three classifica-

tions covering the country one shows 572 commodities so advanced another 531, and the third 240. In addition to these advances there were very great advances in commodity rates on several important articles of shipment, such as iron and steel, soft coal, and lumber. Besides these advances in rates the public burden has been increased by the greatly increased cost of transportation by private-car and refrigerator companies.

Among the commodities advanced in the official classification, hay was advanced from sixth to fifth class. The representative of the National Hay Association declared that this advance made the rates on hay prohibitive for long distances, and in effect practically excluded the hay crop of the North Central States from the Eastern markets. The change in the classification advanced the rate on hay, Chicago to New York, for instance, $1 per ton. The average advance is estimated by the Interstate Commerce Commission at 80 cents, which, applied to the annual tonnage effected, equals a total annual advance of $2,434,000, or a total to the date of the statement of about $10,000,000, and if continued to the present time $15,000,000. This is the result of only one of the 572 advances in one classification.

Another commodity similarly advanced in classification is sugar. The people have paid out, because of this advance, from $5,000,000 to $6,000,000 more than they would have paid if the advance had not been made.

Of course, this advance does not make much difference in the homes where incomes are large and luxury prevails. But, Mr. President, the additional burden falls with great weight upon the little homes, for a few dollars, more or less, is a matter of great importance in the strict economy which is necessary to the very existence of the home life.

The most vigorous complaint before the Congressional committees against advances and overcharges in freight rates was that made by the live-stock associations.

I suppose, Mr. President, it was vigorous because the live-stock associations represent large interests and are able to present their cases strongly and fight them out before the Congressional committees and the Interstate Commerce Commission.

These excessive rates for the transportation of live stock vitally affect the prosperity of the whole agricultural West. The agriculture of nearly all of this whole section derives the largest part of its money income from the sale of live stock. Live stock is the most valuable single finished product of the whole agricultural industry. It constitutes about 12 per cent of the total tonnage of the traffic of the western roads.

This great interest has spent thousands of dollars in prosecuting its complaints before the Interstate Commerce Commission and in trying to get relief from the oppression of the railroads. The complaints show advances in the rates for shipment of cattle to northwestern feeding grounds from $55 per car to $100 per car—advances on which the railroads have extorted not less than $3,000,000. They present the advances by the addition of a terminal charge of $2 per car for delivery at the Union Stock Yards at Chicago—an extortion amounting through the years to over $6,000,000. The complaints further show that the rates to markets have been advanced from 4½ cents to 9½ cents per 100 pounds, or from 12 per cent to 31 per cent, and that the rates in force are higher than they have ever been in twenty years, or since the filing of tariffs and the establishment of the Interstate Commerce Commission give us a record upon which to base accurate statement of specific rate changes.

The cattlemen complained that all these rates are "unjust, unreasonable, and unlawful." They supported their complaints with comparisons of these rates with the maximum reasonable rates established by the State of Texas, and showed that the interstate rates for like services were 37 to 41 per cent in excess of the rates fixed in Texas.

Further, the cattlemen complained that these increases in the rates had been accompanied by marked deterioration in the service, causing great losses to the shippers.

When these complaints of the cattlemen were presented to the railway managers, they answered, with supreme assurance: "Oh, we expected them to complain." They did complain. The complaints have been prosecuted at great expense of time and labor. At great trouble and expense these complaints of "unjust, *unreasonable*, and unlawful" rates have been laid before Congress.

In February, 1903, an advance was ordered by the roads of 2 cents per 100 pounds, or $8 per car, in all rates on southern pine lumber from all southern producing points from Georgia to Texas, inclusive, to all markets north of the Ohio River, to all points in the Middle and Eastern States—to practically all outside markets to which the lumber is shipped. This advance 20,000,000 tons. On this traffic the total increased charge amounts to $8,000,000 annually, and if figured from the time the advance was made to the present time this advance amounts to not less than $25,000,000.

Not only is there complaint of this advance in the rates to northern markets, but in the lumber districts of the South there is the most vigorous complaint of the unreasonableness of the rates for the distribution of lumber locally. Comparison is made with the State rates of Texas to emphasize the necessity of a law to prevent unreasonable rates on interstate traffic, but this complaint, like that of the cattle raisers, will not be satisfied by simply giving them relatively equal rates. They are entitled to real justice, not merely relative justice.

These are only a few of the many advances in rates of which we find complaint in the hearings. The Interstate Commerce Commission reported advances of 10 cents per ton on soft coal and amounting on the traffic affected to $10,000,000 annually. Advances on iron and steel articles were estimated by the Commission to amount to $4,000,000 per year.

Mr. President, I shall next consider one of the defenses which the railroads make when charged with having greatly advanced their rates.

INCREASE IN TON-MILE REVENUE.

Notwithstanding that specific advances have in recent years been made in the rates on many important commodities, and general advances have been made through classifications, it is contended that the average freight revenue per ton-mile shows that rates have been reduced. Senators well understand that the per ton-mile rate means the average revenue from hauling a ton of freight 1 mile. This contention is suported with comparisons of the rates per ton per mile for various years, so selected as to support that claim. While it is true that the ton-mile rate shows a decrease from many years ago, since the year 1899, which marks the inauguration of the great period of combination and the elimination of competition, the ton-mile rate, even, shows a constant upward tendency year after year.

For these years the statistical reports of the Interstate Commerce Commission show the following average revenue per ton-mile:

	Cents.
1899	0.724
1900	.729
1901	.750
1902	.757
1903	.763
1904	.780

The increase, now, mark you, from year to year on each ton-mile is not large, but the aggregate increase when applied to the total traffic which it affects is enormous. The increase from 1899 to 1904 amounts to 0.56 of a mill per ton-mile. This increase, on the traffic of 1904 (175 billion ton-miles), equals a hundred million dollars. This is the amount the public paid in additional freight charges on the traffic of that year alone more than they would have paid had the rate of 1899 not been advanced.

But the increase in freight rates is only partly measured by the increase in the ton-mile revenue. The revenues are the product of the rates and the traffic. Both of these quantities are variable. The rates, as we have seen, have been advanced to increase the average revenue per ton per mile. The traffic, on the other hand, has undergone certain changes which tended to *decrease* the revenue per ton per mile. If there had been no advance in rates, the changes in traffic conditions would have lowered the per ton-mile revenue. Thus the tendency of traffic changes has been to offset and conceal the effect of the increases in rates on the revenue per ton per mile. The net result of these changes in the traffic conditions from earlier years to 1904 is that a ton-mile of traffic represents a less valuable service in 1904. In other words, the public in buying this unit amount of traffic in 1904 get *less* for the price paid. The principal traffic changes producing this effect are that the ton-mile of transportation service in 1904 represents, as compared with former years, (1) a greater proportion of low-grade, cheap traffic; (2) a greater proportion of long-haul traffic; (3) a greater proportion of carload (as against less than carload) traffic.

INCREASED TRAFFIC AND ECONOMY.

The foregoing enormous advances in rates have been made in the face of every known force in transportation conditions which tend naturally to reductions in rates. The density of traffic has increased enormously. The average length of haul has increased. The efficiency of road and equipment to handle traffic economically has been vastly increased. The public has

every right to demand lower rates as the traffic increases and industrial development brings about greater efficiency and economy in the cost of performing transportation services. The common carrier is in any case entitled to only such profits as will yield a fair return on the fair value of the property employed.

How the rates have been advanced I have already shown. Now, I wish to present a few facts to show why the rates should have been reduced.

It is a fundamental principle in the laws of transportation cost that the average cost per ton per mile varies inversely with the number of ton-miles hauled. Or to state it more plainly, if less exactly, that the greater the amount of traffic hauled the less the cost of hauling each ton-mile. It does not cost twice as much to haul a carload of 20,000 pounds as to haul a carload of 10,000 pounds; it does not cost twice as much to haul a carload 100 miles as to haul it 50 miles. Based on this fact, every test applicable demands a lower cost, and therefore lower rates in 1904 than in 1897.

The most significant factor in determining the ton-mile cost is the average number of tons of freight hauled in each train. You can haul a train of thirty loaded cars 100 miles at very much less cost per car than you can haul a train of ten cars the same distance. That must be very apparent to everyone. Mr. Woodlock, in his book "The Anatomy of a Railroad Report," analyzing the cost per ton per mile, concludes that the train load is the supreme factor in the determination of ton-mile cost; that it is the test of economical railroading, and that it "determines a larger proportion of the ton-mile cost than all other factors put together."

The number of trains run directly affects about 60 per cent of all operating expenses. The larger the train load the fewer trains will be required to handle a given amount of traffic. Hence it may be said, roughly speaking, that 60 per cent of the average cost per ton-mile is reduced in direct proportion as the number of tons hauled in each train load is increased. There are other minor factors, such as tons per car, tons per locomotive, etc., which affect the ton-mile cost in a less degree, but when all such factors have a common tendency, the effect of each factor augments the force of all the factors in combination.

The statistical reports of the Interstate Commerce Commission show that the average numer of tons of freight carried per train load in 1897 was 204 tons, and in 1904, 307 tons, or an increase of 50 per cent, and representing the relative decrease in the cost of handling the traffic per ton per mile. In like manner, the average number of tons hauled per each freight car in operation increased 27 per cent, and per each locomotive 33 per cent.

Perhaps the force of these changes in traffic conditions as tending to reduce the cost per ton per mile will be more readily appreciated if stated conversely. Given 1,000,000 tons of freight to be moved in 1897 and 1904, the changes in traffic density and other conditions effect the following savings in the amount of equipment necessary and services required:

	1897.	1904.	Savings in 1904.	
			Number.	Per cent.
Services.				
Train loads	4,902	3,257	1,645	50.5
Train men	218	194	24	12.3
Equipment.				
Cars required	1,647	1,292	355	27.5
Locomotives	27.5	20.6	6.9	33.2

Further consideration of freight traffic conditions only serve to emphasize the showing made by the above figures. The total number of tons of freight carried increased 76.6 per cent; the number of tons carried 1 mile—the total number of absolute units of traffic—the increase during the seven-year period, 83.4 per cent. The traffic density, i. e., the number of tons carried 1 mile per mile of line, shows the remarkable increase of 60 per cent, and in the face of all the conditions the best argument the roads have to offer in defense of the charges is the statement that their average revenue per ton-mile has been reduced from 7.98 mills in 1897 to 7.80 in 1904, a reduction of 0.18 mill, or 2.26 per cent.

In respect to passenger traffic it is sufficient to point out that the same tendencies, only slightly less in degree, are true, as in the case of freight traffic. As an offset to this, the average rate per passenger per mile shows a reduction of 0.8 of 1 per cent. The figures are given in detail in the following table:

Increase in traffic.—A percentage conclusion based upon the increase in the volume of traffic and the efficiency of the road to handle the traffic.

Item.	1897.	1904.	Increase.
Average number of tons carried:			*Per cent.*
Per freight train load	204	307	50.50
Per freight car	607	774	27.51
Per freight locomotive	36,362	48,463	33.28
Per employee	901	1,011	12.22
Per trainman	4,596	5,160	12.27
Number of freight cars	1,221,730	1,692,194	38.51
Tons carried	741,705,946	1,309,899,165	76.61
Tons carried 1 mile	93,139,022,225	174,532,089,577	83.44
Tons carried 1 mile per mile of line	519,079	829,476	59.80
Average number of passengers carried:			
Per train load	37	46	25.15
Per passenger car	14,556	17,997	23.64
Per passenger locomotive	48,861	63,582	30.13
Number of passenger cars	33,626	39,752	18.22
Passengers carried	489,445,198	715,419,682	46.17
Passengers carried 1 mile	12,256,939,647	21,923,213,596	78.86
Passengers carried 1 mile per mile of line	66,874	104,198	55.81

INCREASED COST—WAGES.

It is claimed by railroad representatives that the economies effected by changes in traffic conditions have been in part offset by advances in the cost of materials and wages during the period covered. Advances in the cost of the materials can not be determined in the present state of public information as to railway expenditures.

My authority for that statement is the reports of the Interstate Commerce Commission, in which they state that they have been unable to obtain from the railroad companies under the present law such information as to permit them to place before the public the exact conditions with respect to operating expenses.

The railway reports of the Interstate Commerce Commission purport to give the amounts expended for labor employed in railway operation, and from such reports it appears that the total amount paid as wages and salaries by railroads increased from $465,601,581 in 1897 to $817,598,810 in 1904, or about 75 per cent. Railroad representatives frequently cite this statement as going to show an enormous increase in the wages paid to railway employees, and without further explanation allowing it to be inferred that it represents a large increase in the rate of wages. The fact is that the increase in this total reported expenditure for wages and salaries is less than the proportion of increase in the total traffic handled, and the increase in the average wage per employee is less than the increase in the average traffic per employee.

If the total compensation and the number of employees reported for the two years, respectively, be a reliable basis for computation, the average yearly earning per employee in 1897 was $565.28, and in 1904 $630.80, or an increase of about 11.5 per cent. But, according to the reports, the increase for the same period in the average amount of traffic handled per employee is 12.2 per cent. Therefore any advance in the rate of wages paid was more than offset by the increased service per employee.

While it is true that a higher rate of increase is reported in the average daily wages for some classes of employees, in other classes the rate of increase is very much less than the above figure. Thus, in four classes, aggregating about 250,000 employees, the increase is less than 5 per cent, and on only a few classes does the increase exceed 15 per cent. It would appear, therefore, that the above computed average increase in yearly earnings substantially agrees with the increase in the daily wages as reported, and, further, that the increase in the rate of wages on either basis is not greater than the increase in the average traffic handled per employee.

Compensation for services—Statistics of increase in wages and salaries paid by railroads, from the statistics of the Interstate Commerce Commission, years ending June 30, 1897 and 1904.

Total compensation reported:	
1897	$465,601,581
1904	$817,598,810
Increase:	
Amount	$351,997,229
Per cent	75.61
Average amount of compensation reported to each employee:	
1897	$565.28
1904	$630.80
Increase:	
Amount	$65.52
Per cent	11.5

Comparative summary of average daily compensation of railway employees for the years ending June 30, 1897, and June 30, 1904.

Class.	Average daily compensation.		Increase.		Number of employees in each class in 1904.
	1897.	1904.	Amount.	Per cent.	
General officers	$9.54	$11.61	$2.07	20.8	5,165
Other officers	5.12	6.07	.95	18.6	5,375
General office clerks	2.18	2.22	.04	1.8	46,037
Station agents	1.73	1.93	.20	11.6	34,918
Other station men	1.62	1.69	.07	4.3	120,002
Enginemen	3.65	4.10	.45	12.3	52,451
Firemen	2.05	2.35	.30	14.3	55,004
Conductors	3.07	3.50	.43	14.0	39,645
Other trainmen	1.90	2.27	.37	19.5	106,734
Machinists	2.23	2.61	.39	17.0	46,272
Carpenters	2.01	2.26	.25	12.4	53,646
Other shopmen	1.71	1.91	.20	11.7	159,472
Section foremen	1.70	1.78	.08	4.7	37,609
Other trackmen	1.16	1.33	.17	14.6	289,044
Switch tenders, etc	1.72	1.77	.05	2.9	46,262
Telegraph operators, etc	1.90	2.15	.25	13.2	30,425
Employees—account floating equipment	1.86	2.17	.31	16.7	7,495
All others and laborers	1.64	1.82	.18	11.0	160,565
Total					1,296,121

From the foregoing consideration it is evident that the average rate of wages paid was not increased from 1897 to 1904 more than 12 per cent. Surely this is true if the increase in officers' salaries is not included. The *apparent* increase in the average amount of traffic handled per employee was 12 per cent; the real increase in the amount of traffic handled per employee was much greater than 12 per cent. This fact is made evident by the following considerations:

1. The average traffic per employee is computed by dividing the total traffic by the total number of employees.

2. If the number of employees reported be greater than the number actually employed in railway operation, this computed average traffic handled per employee will be proportionately understated.

3. The total number of employees reported for 1904 greatly exceeds the number actually employed in *handling the traffic*, because there are included in the number so reported *thousands of employees* engaged in the *construction of betterments* and *additions to the property*, but charged to *operating expenses*.

While there were probably some employees engaged in the construction of betterments charged to operating in 1897, the number was very small, as compared with 1904. It is chiefly in times of great prosperity that railway improvements are made out of earnings and charged to operating expenses. Later I shall give instances of millions of expenditures made in this manner in the last few years.

In addition to this well-known fact, there is evidence in the railway reports indicating a large increase in the numbers of employees engaged in improvements and charged to operating expenses.

Railway employees whose compensation is charged to operating expenses are classified, exclusive of general administrative employees, under the following departments: Maintenance of Way and Structures; Maintenance of Equipment; Conducting Transportation.

With the great increase in the volume of traffic, we should expect a considerable increase in the number of persons required in the conduct of transportation. There would also be an increase in the number of persons required to maintain the condition and efficiency of way and equipment, though these departments would be less directly affected by the increase in traffic than would the transportation department. On the other hand, employees engaged on improvements charged to operating expenses would naturally be reported in the maintenance department. If the number of employees improperly charged in this manner was large enough it might result in a greater increase in the number employed in the maintenance departments. This is precisely what the reports show.

The number of persons employed in conducting transportation increased as a consequence of increased traffic only 50 per cent. But the number of employees in maintenance departments increased 67 per cent, as a result not only of increased traffic, but on *account of improvements and betterments made*. Of course, this increase affects the increase in the total number of employees and results in an improper reduction in the average traffic per employee.

Assume that the increase in the number of employees properly chargeable to maintenance should be as great as the increase in conducting transportation—say 50 per cent. Then all over 50 per cent are improperly charged, and should be deducted. When figured out, this difference amounts to nearly 70,000 employees. And it is evident that at least this number of the employees charged as engaged in operating the railways are actually engaged on improvements and additions to the property.

If this correction and reduction be made in the number of employees reported, and a new computation made of the average traffic per employee, the result shows that the average traffic per employee, in 1904, instead of being 1,011 tons, was, at least 1,067 tons, or an increase over the average for 1897 of 18.4 per cent—an increase in the traffic handled per employee more than one-half greater than the increase in the rate of wages per employee. In the face of this fact it is idle for railway representatives to contend that the increases that have been made in wages in any degree justify the advances in freight charges. Whatever the amount of such increases in wages may have been, it is a perfectly safe conclusion that they have been entirely provided for by the increase in the traffic handled.

Persons employed, classified by department of service, 1897–1904.

Department of service.	Total number employees.	
	1897.	1904.
General administration	31,871	48,746
Maintenance of way	244,873	415,721
Maintenance of equipment	160,667	261,819
Total maintenance	405,540	677,540
Conducting transportation	378,361	566,798
Unclassified	7,704	3,073

OVERCAPITALIZATION.

Mr. President, the railroad is entitled to "just compensation" for its public services.

Reasonable rates are held to be such rates as afford "just compensation."

The Supreme Court has determined that reasonable rates affording "just compensation" are such rates as pay a fair return on a fair value of railway property.

We shall settle nothing then, respecting reasonable rates and just compensation until we ascertain the fair value of the railroad property of the country.

The railroads are capitalized at $13,213,124,679 (1904).

The public believes that this capitalization grossly exceeds the fair value of the property; that it has been wrongfully "watered" and inflated; and that the producers and consumers of the country are unjustly taxed on transportation to pay an income upon a false and fradulent valuation. The railroads deny this claim. That makes a sharp and conflicting issue between the public and the railroads.

I shall, therefore, present in this connection evidence of the over capitalization, inflation, and "watering" of many of the railroad properties of the country. I shall go into the subject fully enough to impeach the standing capitalization of the railroad property of the country. I shall present such an array of facts as shall enforce the public demand for an accurate valuation of the railroad property of the country.

The falsity of any representation which speaks of railway capitalization as "railway investment" becomes readily apparent when a few instances are cited to show the nature and source of capitalization of some of our leading railroads. Only a few days ago the case of the Wilmington and Delton, a North Carolina railroad was cited here. This road was originally capitalized on such a basis that its stock afterwards sold at $40 per share. The earnings were forced up, however, and when the road became important it was merged into the Atlantic Coast Line and $400 of new stock issued for every $100 of the old stock, which had in past years been selling at $40 per share.

Probably everyone is familiar with the history of the making of millions of Erie stock by Daniel Drew, the treasurer of the road, to pay a gambling debt. He had sold short to Vanderbilt, who was trying to get entire control of the road, and when Drew found that Vanderbilt had cornered all the stock in sight he got a printing press and made enough more Erie stock to satisfy his obligation. And this generation is asked to fix transportation charges high enough to pay interest and dividends on railroad securities created in this manner.

An examination of financial newspaper files will show regularly, advertisements of reorganization committees announcing about as follows:

The reorganization committee will issue $1,000 of new 6 per cent bonds; $1,000 of 6 per cent preferred stock, and $1,000 of new common stock in exchange for each $1,000 of 6 per cent old bonds.

Some interesting evidence on this question was given before the Cullom committee in 1886. Mr. O'Donnell, of the New York State Railroad Commission, called attention to the wa-

tered capitalization of the Erie Railroad in the following language:

They increased their capital one year over $30,000,000, and the reason they gave was that they had to lay down steel rails. In the vernacular of the newspapers at that time they spelled steel rails "s-t-e-a-l."

Mr. H. V. Poor, the author of "Poor's Manual" of railroads, in his statement before the Cullom committee, 1886, pointed out that the most of this fictitious capitalization has been issued in defiance of law and in violation of charter provisions. He says, in part:

The reasons for such provisions are obvious. Railroads have virtually the power of taxing the people. * * * The object of such provisions is to limit this power of taxation to a fair return on the capital actually invested. The *common way* in which such a wholesome provision of the law is avoided is by contracts for construction in which the promoters of the railroad to be built are really the contractors, receiving a gross amount of stocks and bonds, twice or thrice greater, perhaps, than the cash cost of the road.

As illustrations of such fictitious capitalization Mr. Poor cited the Pacific roads chartered by Congress. In the act chartering the several companies it was provided that the share capital should be subscribed for bona fide, and that the full nominal value of the same should be paid in in cash.

A Congressional investigation of the Union Pacific showed that the stock of the company was issued chiefly to the directors of the road under a contract for construction *without consideration*. The committee reported to the House that the issue of this stock in violation of law justified the abrogation of the company's charter. It was not abrogated.

The Northern Pacific Company, under like charter restrictions, divided the whole nominal amount of $100,000,000 of its capital stock among the promoters of the enterprise, little or nothing being paid thereon, before any considerable expenditure was made on the road.

The Central Pacific was likewise constructed by its promoters, and the greater part of the stock issued went to them as a gratuity.

The water in the Erie was described by Mr. Poor as the difference between the par value of $55,000,000 *of bonds* ($1,000 each) and the price, $350 each, at which they were sold, or in all about $36,000,000.

The New York Central secured a special act of the New York legislature which allowed some $48,000,000 of water to be added to the capitalization of that property, in violation of statutory and charter provisions. The promoters of the New York, West Shore and Buffalo Railroad divided the $40,000,000 capital stock of that company as a part merely of their profits to be received under a construction contract.

The greater part of the share capital, $50,000,000, of the New York, Chicago and St. Louis Railroad was issued in like manner as a profit to the promoters.

Says Mr. Poor:

Another mode of issuing "water" was that adopted by the East Tennessee, Virginia and Georgia Company, which, without the payment of any considerable sum into the treasury, increased its share capital from $1,900,000 to $44,000,000, the occasion of the increase being the purchase of or consolidation with some other line.

Previously, in his Manual for 1884, Mr. Poor had given careful attention to this question, and as a result of his investigations stated that the true investment in our railroads did not exceed the amount of the bonded indebtedness. In a subsequent estimate, before the Cullom committee, Mr. Poor somewhat reduced the proportion of the fictitious capitalization in the foregoing statement, but he was particular to state that in this later estimate no allowance was made for the enormous amount of water in the bonds.

In the course of his statement Mr. Poor quoted Mr. Charles Francis Adams, writing in 1869 of the capitalization of the Union Pacific Railroad. The statement is all the more interesting in that Mr. Adams later, and at the time of Mr. Poor's statement, was president of the road. Mr. Adams said:

The line from Chicago to New York represents now but $60,000 to the mile, as the result of many years of inflation, while the line between Omaha and San Francisco begins life with a cost of $115,000 per mile. It would be safe to say that this road cost considerably less than one-half of this sum. The difference is the price paid for every vicious element of railroad construction and management. Costly construction, entailing future taxation on freight; tens of millions of fictitious capital; a road built on the sale of its bonds and with the aid of subsidies; every element of real outlay recklessly exaggerated, and the whole of it some future day to make itself felt as a burden on the trade which it is to create.

By exacting earnings from the public on the basis of this fictitious capitalization, Mr. Poor says:

The Union Pacific and the Central Pacific together divided or carried to the credit of profit and loss over $100,000,000 over and above a fair return upon the capital invested in them. The water in the New York Central equaled $48,000,000 or thereabouts. Upon this sum dividends at the rate of 8 per cent were paid for fifteen years, the water and the dividends on the same equaling over $100,000,000.

Mr. Thurber, a New York wholesaler, who testified before the Cullom committee, criticised Mr. Poor's estimate of railroad fictitious capital in this language:

I know there are so many instances where that is so very much short of the mark that it is absurd. I think he said the New York Central was about half water. Why, the New York Central had been watered three times prior to 1867–68, and at that time they doubled it. They put forty-seven millions of water into the New York Central and Hudson River Railroad in 1867–68, and they paid 8 per cent dividends on that forty-seven millions until last year (1885). I think last year they paid 6 per cent.

Mr. Thurber submitted as an example of "how excessive capitalization operates as a mortgage upon the industry of the country" a computation of the amount of these dividends, with interest, over the period of fifteen years, which aggregated over $100,000,000.

In the statement of Mr. Simon Sterne, who testified before the Cullom committee as the representative of the Board of Trade and Transportation of New York, we obtain some interesting information as to the manner in which these stock issues and some other questionable items find their way into the *construction accounts* of the railways.

I shall presently show how the whole system of railway accounting has been built up with a view of concealing these transactions and of concealing the earnings of the railways from year to year up to the present time. Sir, I should not care to trespass upon the time of the Senate to present the facts of the false and fraudulent capitalization of the railroads of these earlier years, except that the villainous system still survives. The methods of Gould, and Fiske, and Vanderbilt, and Huntington are the methods of Morgan, and Rockefeller, and Hill, and Harriman. It is the same old game. The stakes are bigger now. The system of accounts and the other details are much more adroit and clever.

As an example, Mr. Sterne cites the expenditure *one year* by the Erie of *$700,000* as a *corruption fund and for legal expenses*, which was carried to the "india-rubber account" and charged to the cost of construction. After the capital of the New York Central was doubled in 1869 they had a stock account, "which," says Mr. Sterne, "was out of all harmony with their construction account, and, for ten years following, every year *varying*, from 3 to 8 per cent of this water was artificially carried into the construction account, and the capital account balanced. * * * In the same way the balances were forced in the Erie Railway Company when Mr. Gould took $40,000,000 of stock of the Erie Railway Company, out of its books, and sold it *on the street*, and appropriated the money to his *own use*, and there was not a *dollar's worth of construction to represent it;* and when reorganization took place the balance of the Erie Railway Company was forced to meet *that violence done to the stock account*."

Is it to be supposed that the people of this country will consent to be taxed to the end of time upon capitalization of that sort?

In the final report of the Industrial Commission, is cited the purchase of the Chicago and Alton Railway, in 1899. The road had been capitalized at $30,000,000. The purchasing syndicate issued in the purchase a total capitalization of $94,000,000.

Another case cited is that of the St. Paul and Manitoba Company (Great Northern Company, Lessor). The property of this company had previously been bought at foreclosure at $3,600,000, and some years later the capitalization reached $84,550,000. In the Great Northern rate case of the Minnesota commission, the Minnesota court made an appraisal of this property to determine the reasonableness of rates, and held that the cost of reproduction of all property of the company at that time, 1896, could not exceed $44,000,000.

The Interstate Commerce Commission, in its decision in the Danville case, said of the $120,000,000 of common stock of the Southern Railway:

This common stock was issued as a part of a reorganization scheme, under which the Southern Railway Company came into existence. It does not appear that the persons to whom this stock was originally issued ever paid one dollar in actual value for it. It simply appears that the stock is outstanding.

In like manner, the capital of the Atlantic Coast Line was increased $50,000,000 without any additional investment, merely to enable Mr. Morgan to get the control of the Louisville and Nashville from Mr. Gates, whom he considered not a "proper person" to control the destinies of that road.

Mr. James J. Hill testified, in an investigation of the Northern Securities merger by the Interstate Commerce Commission, that in the purchase of $108,000,000 of Burlington stock by the Great Northern and Northern Pacific Companies, $216,000,000 new 4 per cent bonds were issued and that the purchasing companies which guaranteed the interest on these bonds, *intended to make the property earn not only enough to pay* 4 per cent on this *doubled capitalization*, but a *dividend on the old stock as well*. Mr. Hill further testified that in the merger there were issued on the capital of the Northern Pacific $22,500,000, and on

that of the Great Northern $39,500,000, or a total of $62,000,000 of securities in excess of the old capital.

In the recapitalization of the Rock Island $75,000,000 Rock Island stock was converted into $75,000,000 of bonds and $137,000,000 new stock.

Current financial journals are discussing a proposed new issue of one hundred million dollars of New York Central stock.

The Senator from South Carolina presented here a few days ago a letter from a competent engineer estimating the cost of railway construction. As a basis for this estimate, the railroads of Massachusetts were selected, because of the more efficient railway regulation of that State, and because the conditions there require relatively large investment for equipment.

After making most liberal allowances for equipment and architectural work, and adding to the average standard costs of construction, the engineer arrived at an average cost per mile of $25,200, which, he said: "I have no doubt substantially exceeds the true costs of railways." On the same mileage the roads of the State are capitalized at $52,000 per mile—"51½ per cent water, probably more."

The writer gives as his conclusion, after thirty-four years of experience and investigation, "that, outside of Massachusetts," * * * "the equipment rarely costs as much as $5,000 per mile, and we are liberal in putting the cash cost of construction and equipment of all roads at an average of $20,000 per mile," making about five billion six hundred million dollars for the investment in all the roads of the country, in 1903, and leaving the seven billion additional capital to represent water. Every example of extraordinary cost of construction that may be cited is more than offset by hundreds of miles of railway which have been built at a cost much less than $17,500 per mile.

To quote directly from the language of Engineer Marks on the cost of construction—

You may, and probably will, have many instances of extraordinary cost of construction brought to prove to you the higher cost of our railways. Many of these instances are both unwise and unnecessary expenditures. Do not forget that for every such case there are hundreds of miles of railway which honestly have not cost $17,500 per mile to construct and equip; on the contrary, very much less.

The most comprehensive statement of the fictitious capitalization of the American railroads, and the most extensive investigation of this question of "water," are probably embodied in the work of Mr. Van Oss, of London, entitled, "American Railroads as Investments," published in 1893. While the information here presented is for the benefit of investors primarily, the facts are equally valuable for our purpose. The conclusions are all the more reliable in consideration of the fact that they are offered largely in commendation of our railway securities as investments, and are not open to such criticism of radicalism as are usually made, by railway interests, in answer to statements of this kind. I wish to say that Mr. Van Oss is an investment banker of London. He is late editor of the Investor's Chronicle. He published, in 1892, "American Railroads as Investments;" in 1893, "American Railways and British Investors;" in 1896, "A Decade of Finance." He has written and still writes articles for various leading reviews on the subject of finance and investments. The added fact that Mr. Van Oss's work is used extensively in the Final Report of the Industrial Commission, gives it a certain authoritative standing, and warrants the extended consideration which I wish to give certain statements and conclusions and the adoption of its final results as the basis for computing an estimate of the actual investment represented by present railway capital.

Mr. Van Oss classifies the different ways of inflating capital of American railways as follows:

1. By fraudulent issues of bonds and shares as a downright swindle or for speculative purposes.
2. By paying too much for construction.
3. By purchasing property at excessive prices.
4. By buying superfluous competing lines.
5. By selling bonds and shares at a discount.
6. By declaring stock dividends.

As an example of stock issued for speculative purposes the history of the Erie Railroad is cited. The capital of this road was increased between 1868 and 1872 "from $17,000,000 to $78,000,000, mainly to manipulate Wall Street." And President Watson, "a few years later, doubled the funded debt, it is said, also chiefly for his own benefit."

As an illustration of the construction company frauds, the incident of the South Pennsylvania Railroad is given. This road was started by Vanderbilt to compete with the Pennsylvania, and it was, says Mr. Van Oss,

proven to have cost actually $6,500,000, and a responsible contractor had offered to build it at that price. Yet a construction company, composed of Vanderbilt's clerks, received $15,000,000 to complete it, and the syndicate of capitalists which supplied this money got $40,000,000 in bonds and shares, so that for every dollar of actual cost over $6 of bonds and shares were issued.

In the same manner, though not in the same proportion, the thing was worked all over the Union. * * * The builders of the Central Pacific, for instance, commenced with the modest sum of $159,000, and, taking this as a nucleus, they completed the road, gathering a capitalization of $139,000,000. * * * The Government commission on Pacific Railroads in its report to Congress says that $58,000,000 would have been a very good price for the railway.

Of the extent to which was carried the practice of selling to railway companies property of officers and directors at excessive prices, in stocks and bonds, Mr. Van Oss says:

Until twelve or fifteen years ago the majority of purchases of auxiliary concerns used to be permeated with fraud.

Parallel lines of railway were built to force their purchase at excessive prices, as a sort of blackmail, backed by the threat of competition. Such purchases added great amounts to the capitalization, but little or nothing to the earning power of the properties. Thus Vanderbilt was forced to lease the West Shore and buy the Nickle Plate, and the Pennsylvania, in turn, had to come to Vanderbilt's terms to preserve its monopoly from competition of the South Pennsylvania.

To secure capital it was a common practice to allow liberal discounts on bonds, "and shares were frequently given into the bargain. * * * The railroads would have outgrown the payments of excessive rates for money if their affairs had otherwise been conducted with honesty and integrity." But they were not. Hence, "shares not being much sought after, it mattered little to the promoter whether he gave shares into the bargain or not." The majority of companies realized nothing for the shares they issued in their early days. The Missouri, Kansas and Texas Railway Company, for instance, gave $21,400,000 in shares to a construction company, in addition to the payment made in bonds. The New York Central, Erie, Reading, St. Paul, Chicago and Northwestern—in short, almost every railway company received nothing for the earlier issue of its ordinary shares. * * * Instances are given of fictitious capital resulting from the payment of stock dividends, as follows:

In December, 1868, the New York Central distributed a stock dividend of 80 per cent, and eleven months later, when consolidation with the Hudson River Railroad followed, a further stock dividend of 27 per cent was declared, while the Hudson River shareholders received one of 85 per cent.

The Reading paid a script dividend of 10 per cent in 1846, one of 12 per cent in 1847, while between 1871 and 1876, upon a capital of $32,200,000, more than half water, $15,700,000 was paid in dividends, mostly scrip.

The Erie made still larger payments of stock dividends; the Chicago, Burlington and Quincy in 1888 paid 20 per cent, and the Santa Fe in 1881 paid 50 per cent.

The practice—

declares Mr. Van Oss—

may be said to have been general, and is still resorted to in numerous cases.

The aggregate amount of water in the five hundred million capitalization of the Central, Erie, and Reading companies is variously estimated from $200,000,000 to $300,000,000.

Poor's Manual for 1884 points out that the increase of capitalization of American railways for the three years ending December 30, 1883, was $2,093,000,000, or $70,000 per each mile of new road. Mr. Poor said:

The cost of the mileage construction certainly did not exceed $30,000 per mile. The whole increase of the share capital and a portion of the funded debt was in excess of the cost of construction.

Referring to this statement of Mr. Poor, Mr. Van Oss says:

Some writers even go so far as to allege that the estimate of Mr. Poor, whom they deem a spokesman of the railways, is moderate and conservative, and the fictitious capital is said by some, among others by Mr. Hudson, to amount perhaps to fully two-thirds of the total capitalization.

Some sound reasons are given by Mr. Van Oss why this view is not improbable.

As a result of his investigation of American railway history and capitalization, Mr. Van Oss arrives at two important conclusions: First, that the average amount originally received in actual value for American railway bonds probably did not exceed 67 per cent. Second, that the original investor in American railway stocks certainly paid not more, on the average, than 10 per cent of their face value, and probably less.

If an estimate of the actual investment on American railroads is computed on the basis of these final percentages given by Mr. Van Oss on the capitalization of 1904 as reported by the Interstate Commerce Commission, we get the following result:

Stock, 10 per cent of $6,339,899,329	$633,989,932
Bonds, 67 per cent of $6,873,225,350	4,605,060,984
Total investment represented by $13,213,124,679, total capital	5,239,050,916
or, in round numbers	5,000,000,000

The remaining $8,000,000,000 odd are entirely fictitious capitalization, and can not be considered in discussion of railway earnings. This gross estimate of cost equals $23,500 per mile of line and exceeds the average true value per mile of all the railroads of Michigan, Wisconsin, and Texas, as actually determined, and is substantially as high as the value placed on the roads of Massachusetts in the engineer's estimates before quoted.

Now, Mr. President, if I am not overtaxing the patience of Senators, I wish to call attention to the methods by which these great and excessive earnings are concealed by the railroad companies of the country.

BETTERMENTS AND SURPLUS OUT OF PROFITS.

To understand the inadequacy of any dividend statement as an index to railway profits, it is only necessary to give attention to a few simple elementary facts. The railroads themselves report annually millions of net earnings in excess of the amounts distributed to bond and stock holders. Enormous sums are every year carried to surplus and devoted to additions, betterments, and improvements out of profits. A tabulation, showing such expenditures for additions to property out of profits, as stated in recent reports of some thirty-two of our leading railways, is hereto appended. [Appendix B.]

I need not pause to say that it is wholly wrong to tax transportation of the people of this country high enough to enable the railroad companies to pile up a great surplus and to make out of their profits improvements and investments for which they should provide with new capital. In other words, they make the public furnish the new capital, and then make them pay interest and dividends upon it. Among the roads included, the Baltimore and Ohio, from 1899 to 1905, spent out of profits over $19,000,000 for improvements; the Delaware, Lackawanna and Western, 1901–1904, over $13,000,000; the Erie, 1902–1905, over $5,000,000; the New York Central, 1899–1904, over $9,000,000; the Pennsylvania, 1899–1904, over $50,000,000; the Chicago and Northwestern Railway, 1900–1905, over $26,000,000; the St. Paul, 1900–1905, nearly $10,000,000; the Omaha, 1899–1905, over $16,000,000; the Santa Fe, 1896–1904, $30,000,000; the Great Northern, 1898–1905, nearly $16,000,000; the Northern Pacific, 1899–1905, about $20,000,000, and the Union Pacific, 1900–1905, over $13,000,000.

Every one of these cases represents excessive taxation of transportation, which, under the Supreme Court decisions, is unlawful. The railroad companies of the country have a right to tax transportation—and I remind the Senate of it again—only enough to pay operating expenses and give them a fair interest or return on the fair value of their property. This is the limit of their lawful profits, and again I remind the Senate that they take out of the people, the producers and consumers of this country, besides their legitimate profits, enough additional and unlawful profits to enable them to accumulate a great surplus. Out of this surplus they make extensive improvements and investments, for which they should pay their own money. Then they "capitalize" these investments and improvements so wrongfully accumulated out of the profits on excessive rates, and, in turn, *make this the basis* for *charging* still *higher rates*. How much longer is the public to wait for Congress to act, while this process of capitalizing extortionate rates goes on? Is it to be expected that the country will patiently accept a bill that does not pretend to touch the source of this infamous wrong?

It is true that these enormous profits do not go to the owners of railway securities directly as interest or dividends, but usually it is the practice of railway companies to capitalize these improvements, and to favor the stockholders in the distribution of the new stock. These improvements add to the earning power of the roads. No further justification is offered by railway magnates for the issue of new capital than that the traffic and the earning power—that is, the traffic and the rates chargeable—can be made to pay interest and dividends on such capital. This was the justification offered by Mr. Hill for the $216,000,000 new railway capital issued in the so-called "purchase" of the Burlington by the Great Northern and Northern Pacific companies. Nothing is omitted to be done in the interest of railway promoters for the want of a pretext. An example is the case of the Chicago and Northwestern road. This road for several years has been making extensive improvements out of profits. From 1900 to 1905, inclusive, it has made such improvements to the amount of $26,500,000. In 1903, $36,000,000 of common stock was issued to buy the "franchises," etc., of the Fremont, Elkhorn and Missouri Valley Railroad Company, of which company the Northwestern already owned all the stock; in other words, the complete title to the road, franchises, and all, excepting such mortgages as were a lien on the property.

When such stock is sold to stockholders of the company issuing it, usually it is sold at about half its value in the market. The favored purchasers may then turn around and sell it to "investors" at the market price. The investors, in turn, expect the value of the new stock to be maintained by the payment of dividends to be earned by charging the public as much as the traffic will bear.

The relation between return on railway securities and the rates charged is very clearly set forth in the London Statist. In an article in June, 1904, urging advantages of American railway securities, the following language is used:

> In recent years there have been few new railroads constructed, and the density of traffic has grown very rapidly. Hence rates have been restored (i. e., to the basis enforced preceding the competitive period of previous years) and with but unimportant exceptions have been firmly maintained. These conditions, moreover, appear likely to be permanent.

TRUE RAILROAD PROFITS NOT KNOWN.

It is a common practice with our railroads in their financial reports, by improper charges to operating expenses, to grossly understate their net earning. Nowhere is there any public information that will furnish a basis for a true determination of the true profits of railroads. Respecting this situation, the Interstate Commerce Commission, in its report for 1903, has the following statement:

> In order to determine whether railroad charges are reasonable or unreasonable, it is necessary to know what measure of profit the carrier is deriving from the rate imposed and what amount of money is received and in what way it is expended. It makes a wide difference whether the revenues of the carrier are used up in necessary cost of operation or are employed in adding to the permanent value of its property.

Of the reports furnished by the carriers, the Commission adds:

> If carriers do not make report or fail to make full report no penalty is provided. As a result certain railways have habitually refused to state what permanent improvements are charged to operating expenses. Others, while professing to distinguish, evidently do not. The result is that the net earnings given in our statistical report do not show the actual net earnings of our railways as a whole, and this is especially so of the last few years, during which most improvements have been made.

This criticism is true generally of all figures and reports furnished by the railroads.

Notwithstanding all the economies resulting from changes in traffic conditions, the ratio of *operating expenses* to *gross earnings* has been maintained in the reports. In 1897 the operating ratio stood at *67.06* per cent, and in 1904 at *67.79*. The manner in which this is accomplished is indicated in the notations to Mr. Floyd W. Mundy's Investor's Manual for 1906, "The Earning Power of Railroads." In these notes you will read of the Delaware and Hudson: "For years a large amount" expended for improvements has been charged to operating expenses; of the Northern Central Railway Company that: "Operating expenses have for years been liberally charged for betterments;" of the Pennsylvania that: "Operating expenses have for years been heavily charged for improvements;" of the Southern Pacific that from 1905 operating expenses were charged with the cost of renewing with heavy steel rails twenty-seven hundred miles of line; and you will read that the Michigan Central "has for years *adjusted its expenses to its earnings*," i. e., charged betterments to operating expenses to whatever amount was necessary to maintain a constant operating ratio.

Sometimes partial statements of such improper charges to operating expenses are given in footnotes in reports to stockholders. Financial writers, who make a study of these matters upon careful analysis of such reports, are able to estimate partly the amount of such charges. In Mr. Mundy's manual, "The Earning Power of Railways," for 1906 are given in notes at the back of the book such statements for a number of companies. Some of these instances are set down in the following table:

Table showing instances of expenditures for improvements and additions to property charged to operating expenses.

[Mundy, "Earning Power of Railroads," notes.]

Name.	Years.	Amounts.
Central Vermont Railway	1899-1905	$1,398,236
Maine Central Railway	1901-1905	2,211,727
New York, New Haven and Hartford Railroad	1901-1903	7,697,340
Delaware, Lackawanna and Western	1902-1904	4,826,366
Erie Railroad	1900-1902	3,588,437
Lehigh Valley	1902	1,676,974
New York Central and Hudson River	1902-1904	8,553,970
Ann Arbor Railroad	1893-1904	2,766,236
Lake Shore and Michigan Southern	1902-1904	16,084,973
Louisville and Nashville	1895-1905	12,913,557
Nashville, Chattanooga and St. Louis	1900-1905	3,741,401

In England the practice of charging betterments to operating expenses, which prevails here, is unknown. English financial writers find it necessary for the information of foreign investors

to correct the reported net earnings of the American railways by the addition thereto of the amount of such improper charge against operating. In analyzing the profits of a few of our leading railways, the London Statist, in 1904, had a tabulation showing net earnings corrected in this manner. Such corrections made in the reported net earnings of nine roads for the year 1903 amounted to $21,263,000 on a total reported net earning of $135,367,000. The correction on these nine roads taken together amounted to 16 per cent of the total net earnings reported. The details are set forth in the following table:

London Statist corrections of reported net earnings of nine American railways for the fiscal year 1903.

[Statist, London, 1904.]

Company.	Net income, 1902-3.	Add betterment outlays charged to expenses.	Net income corrected.
Chicago, Milwaukee and St. Paul	$18,045,000	$2,333,000	$20,378,000
Denver	6,885,000	120,000	7,005,000
Great Northern	22,651,000	1,443,000	24,004,000
Lake Shore [a]	10,354,000	6,315,000	16,669,000
Louisville and Nashville	12,601 000	2,006,000	14,601,000
The New York Central	29,419,000	3,256,000	32,675,000
Reading	15,946,000	2,196,000	18,142,000
Southern	13,763,000	2,500,000	16,263,000
Wabash	5,793,000	1,100,000	6,893,000
Total	135,367,000	21,263,000	156,630,000

[a] Year ending Dec. 31, 1903.

PRESENT RAILWAY PROFITS GROSSLY EXCESSIVE.

It becomes desirable in this discussion to estimate, as best we may, in some measure the amount to which railway charges are, on the whole, excessive. If railway interests have any complaint to make against any such estimates as are offered, it should be remembered that it is the railways themselves who, by their practice of manipulating railway accounts and statistics and by their issues of billions of watered capital, make it necessary that this discussion proceed upon the unsatisfactory basis of mere general estimates instead of exact knowledge which the public has a right to have. These are public-service corporations. If it be true that the public should pay transportation charges to yield a fair profit on a fair value, then the public is entitled to know not only the value of railway property, but the exact cost of operation and every other fact pertaining to the conduct of the business which in every way bears upon the cost or the character of the service.

Transportation and transportation charges affect the daily life of every man who must support a family in this country. The head of the household is the freight payer in the United States. From the time he begins to have any responsibility in the maintenance of a family he must pay freight on every single article that enters into the economy of the household or the material life of the family.

I do not expect that an estimate of the actual investment in railways, as computed on the basis of Mr. Van Oss's investigations will pass without criticism. But the comprehensive and thorough character of the investigations certainly entitle his conclusions to respectful consideration. I believe that they are fair and conservative. In any computation of reasonable railway profits, based upon this estimated value, it should be kept in mind that no deduction is made for that part of the value of our railway which was donated by the public.

Mr. President, when so much sympathy is expressed for "innocent purchasers" of watered stocks and bonds, I think it is worth while for the Senate, for the Congress, and for the country to consider the vast amounts of money that have been given by private donation, by State appropriation through municipal bonds, by State donation through land grants, and by lavish donations through land grants made by the Federal Government. These enormous contributions by the innocent public add another argument demanding that the interests of the general public shall be the first and paramount consideration in this legislation.

The total amount of such donations is variously estimated as high as $2,000,000,000. Furthermore, any computation of railway profits must, for want of better information, accept as a basis of railway profits the net earnings as reported by the company. Such net earnings are very much understated, probably to the extent of 15 per cent of the total net earnings reported.

If there is a disposition to contend that railway capital issued subsequent to Mr. Van Oss's report represents a larger proportion of actual investment than determined by him at that time, I ask that the above facts be given consideration. It is not admitted that later issues of capital represent more real investment; but if this be so, the error in our conclusions which this may tend to produce will be fully offset by the inclusion of the enormous amounts of railway value which have been literally given by the public, and the acceptance of the understated net earnings of the railways as a basis of computing their profits. Finally, I wish to call attention to the fact that an estimate of $5,000,000,000 as the actual value of American railways is equal to $23,500 per mile on the mileage of 1904. *This is more than the average value per mile for all the roads, the value of which has been actually determined by the States of Michigan, Wisconsin, and Texas.* With a knowledge of the roads of Michigan and Wisconsin, I do not hesitate to say that they fairly represent the average cost of the roads of the country.

The total net earnings of the railways of this country as reported for 1904 amounted to $685,205,467. This net earning equals an annual return of 13.7 per cent on a total investment of $5,000,000,000. Money is seeking investment to-day where the security is adequate for a return of 4 per cent and even less. I believe that under an efficient Government control there would be no place where honest investment would be more secure than in the railroad development of this country.

If 4 per cent is a fair rate of earning, the railroads of this country are charging annually at least $485,000,000 more for transportation than is a fair return upon their investment and a just compensation for the services rendered. This amount is nearly 25 per cent of their total gross charges. It amounts to $6.06 per capita for every inhabitant of the country, or $38.50 for each family.

If 5 per cent is a fair rate, the roads are charging annually at least $435,000,000 more than is fair and reasonable, or an amount equal to 22.7 per cent of their total gross charges—$5.43 per capita, or over $25 per family.

If 6 per cent is a fair rate, the carriers are exacting annually at least $385,000,000 more than is fairly reasonable, or nearly 20 per cent of their total gross charges. In other words, on this rate of profit the gross charges are practically 25 per cent in excess of just and reasonable charges. This excess amounts to $4.81 per capita, and $22.60 for each head of the family.

If the carriers are entitled to earn 8 per cent, they are now overcharging by at least $285,000,000 annually. This is an annual tax upon the people over and above any possible fair or reasonable charge for the service rendered amounting to over $3.65 per capita, or about $17 for every head of a family in the United States.

These rough estimates are not submitted as final statements, but are subject to revision in the light of additional information, but no hesitancy is felt in expressing confidence that an exact knowledge of the facts involved will require a revision of these estimates to show a larger measure of extortion than is here suggested. It is not the purpose of these figures to present a measure of this extortion so much as to make clear the conditions which demand that a true and actual measure of such extortion shall be determined, and finally to demand that power be lodged in some competent and disinterested tribunal to correct it.

PUBLIC AID TO RAILWAY CONSTRUCTION.

We sometimes hear it stated that the cost of reproduction of railway property would not fully and fairly represent the actual investment. On the contrary, present values, as represented by the cost of reproduction, or almost any other measure by which the roads may be valued, would be more, by hundreds of millions of dollars, than the actual investment in the property on which the stocks and bonds were based. A large part (estimated as high as two billions of dollars) of the actual investment, which was about five billions, was not furnished by the owners of the railroads, but was furnished by the public. These donations were in the form of enormous land grants, of State and Federal subsidies of cash and credit, rights of way, cash bonuses by towns and counties, and subscriptions to the capital stock.

Frequently we hear it urged that railroad owners should be allowed a profit on more than the actual investment, because of the risk which they assume in constructing the road. The contention is unsound, because in the majority of cases, the railroad builders did not assume this risk. In recent railway construction there is practically no considerable risk. In the earlier period of construction, and to a less degree in the later, substantially all the risk involved was assumed by the community in which the roads are built.

The amount of land granted by State and Federal governments in the aid of railways is expressed only by figures so large as to be totally incomprehensible. In twenty years prior to 1871 the Federal Government granted in aid of railway construction 155,000,000 acres of land. Several States granted, in addition to this amount, a sum sufficient to equal about 200,000,000 acres of land. While a considerable amount of the Federal grants were forfeited, the railways have received from

this source about 100,000,000 acres, and will receive many millions more. The amount actually received from the State and National governments will aggregate an area equal to five States the size of Pennsylvania.

In addition to these enormous land grants many millions of dollars in national and State bonds were issued in the aid of railway construction. The United States Government issued to the Pacific road Federal bonds to the amount of $16,000 a mile to the base of the Rocky Mountains and $48,000 to $32,000 per mile through the mountains to the Pacific coast. This loan was secured to the Government by a second mortgage on the road, which was subject to a prior mortgage for a like amount per mile. In this manner the Federal Government loaned to the Union Pacific, the Central Pacific, the Western Pacific, the Kansas Pacific, and two smaller companies about $65,000,000. This does not include the interest on the bonds, which for years was paid by the Government, and which was never fully repaid.

Several of the States made grants of many millions of dollars in similar manner. The State of Missouri spent thirty-two millions, of which it never recovered but six. Tennessee spent thirty millions. Half of the States in the construction period increased their bonded debts for the aid of railways. Among the larger contributors were Illinois, Indiana, Michigan, Georgia, Tennessee, North Carolina, South Carolina, Missouri, Virginia, and Louisiana.

Counties and municipalities issued their bonds in like manner. The census of 1870 shows that there were still outstanding in county bonds issued in the aid of railway construction not less than $185,000,000. In New York State alone county and municipal aid amounted in 1870 to no less than thirty millions. And in Illinois, in 1873, it was determined that there had been spent $20,000,000 in this manner. This practice was common throughout the country.

As a general rule, the programme in railway construction was for the community to assume the first and greatest risk. In his History of the Chicago, Milwaukee and St. Paul Railway Company, John W. Cary, for thirty years general counsel of that company, says of the projectors of the first line of that great system:

> There were many active, energetic men ready to engage in the work, but without money.

When these "active, energetic men" had secured a charter; when they had secured Federal, State, or municipal aid; when the terminal city had loaned the company its credit in city bonds; when right of way and depot grounds had been donated to the company; when the towns along the right of way had put up bonuses; when the farmers had made subscriptions to the capital stock; when the success of the venture was practically assured, and sufficient security in the form of property and privileges was gathered in the company, then these "active, energetic men" could go to the financial centers and sell the mortgage bonds of the company. These bonds furnished enough additional money to build the road—and usually many snug fortunes besides, which on one pretext and another found their way into the pockets of promoters, together with a goodly number of bonds. As a regular part of the high-finance methods of railway construction, most of these construction companies went through foreclosure proceedings, and farmers and towns subscribing to stock and municipalities that had made loans on inferior mortgages found their securities worthless.

As an example of these practices I offer a few instances, taken from Mr. Cary's History of the St. Paul Company. These instances all relate to lines now within one company and lying within a small district in the southeastern part of the State of Wisconsin. The same territory is served by two other roads with similar histories. And the conditions represented were typical, not only for the entire system of these companies, but generally for all railway construction in the country down to very recent years. It still continues to some extent.

About the first step taken toward the construction of the Milwaukee and Mississippi Railroad, the first line of the St. Paul system, was to induce the city of Milwaukee to issue bonds.

The Milwaukee and Fond du Lac Company began business by securing the loan of the city's (Milwaukee) credit of $114,000, secured to the city by a second mortgage on the proposed line, to be subject to a prior mortgage of $10,000 per mile.

The above company was consolidated with the Milwaukee, Fond du Lac and Green Bay Railroad. The city of Milwaukee loaned this company $200,000.

When the Fond du Lac and Green Bay Company had secured its loan of Milwaukee city bonds and depot grounds, it in turn consolidated with the La Crosse and Milwaukee Railroad Company.

The Milwaukee and Watertown Railroad Company secured similar aid from the city in the amount of $200,000.

The Milwaukee and Horicon Railway Company in like manner secured $166,000.

The Milwaukee and Mississippi Railway Company in 1867 began the extension of its line west of Janesville. The funds consisted of cash subscriptions to the stock, farm mortgages, and Milwaukee city bonds. Of these bonds there were issued for this company $300,000 on a second mortgage, and $250,000 for which the city received only common stock. On the subsequent foreclosure only $96,000 was received for the benefit of all stockholders.

In 1852 the Racine, Janesville and Mississippi Railroad Company was organized, and started to raise money to build from Racine to Janesville. Racine city issued bonds and subscribed to the capital stock to the amount of $300,000. Janesville failed to subscribe, so the charter was amended and the line changed to go through Beloit, and Beloit issued bonds and subscribed for $100,000 of stock. The town of Delavan subscribed for $25,000; the town of Racine for $50,000. As laid out, the line proposed to omit the towns of Burlington and Elkhorn, but upon their subscription to the stock they were included. The little town of Elkhorn paid $15,000 for the privilege of seeing the cars go by.

Mr. Cary says:

> The farmers along the line of road subscribed to the capital stock to quite an amount, and gave in payment of their subscriptions their notes secured by mortgages on their farms.

As, on subsequent foreclosure sales, the amount realized was less than the aggregate of the several mortgages the stockholders necessarily lost.

On its line constructed from Milwaukee to Portage, 96 miles, the La Crosse and Milwaukee Railroad Company raised $1,100,000, or more than $11,000 per mile in farm mortgages alone. The method by which these farm-mortgage subscriptions were raised is described by Mr. Cary as follows:

> The Milwaukee and Mississippi Railroad had adopted the plan of raising funds by procuring farmers to subscribe to the capital stock of the company, and mortgaging their farms as security for their notes given for such subscriptions, and a considerable amount had, prior to the construction of the La Crosse road been realized in that manner on the Mississippi Railroad.
>
> This mode of procedure became quite common with several of the roads of Wisconsin, and it was adopted, among others, by the La Crosse company, and prosecuted most vigorously and successfully so far as obtaining mortgages from the farmers was concerned.
>
> Deacon Clinton, who had been engaged on that branch of business on the Mississippi road, was employed as a special director of the La Crosse road, and devoted his entire time to the matter of procuring subscriptions from the farmers on this plan.
>
> Such mortgages were procured to some extent in Washington County, very largely in Dodge County, and in Columbia and other counties along the line of the road.
>
> In all, over $1,100,000 of this class of subscriptions were obtained for the La Crosse company.
>
> The modus operandi was for the farmer to subscribe to the stock, give his note for the amount of the subscription, payable to the order of the company, secured by a mortgage on his farm, bearing from 8 to 10 per cent interest. The company then attached to said note and mortgage its bond guaranteeing the payment of the note and mortgage, principal and interest, and in and by the terms of the bond the note and mortgage were assigned to the holder, and such note, mortgage, and bond were sold in the market together as one security, and not separately, the note not indorsed. An agreement was also given to the farmer by which the company agreed to pay the interest on the note until it became due, in consideration of which the farmer made an assignment of his prospective dividends on the stock so subscribed for sufficient to pay said interest.
>
> It is needless to say that this stock proved worthless and that the farmers were compelled to pay their mortgages, and in very many cases lost their farms.

CONCLUSION.

Sir, this extended review of the evidence of increasing rates and vicious discrimination, of the methods of railroad building, overcapitalization, and reckless speculation, demonstrates the necessity of the valuation of railroad property as an indispensable basis for securing to the people of this country just and reasonable rates. Before this bill becomes a law I trust that the amendment which I shall offer, or some better one, will be incorporated, making full and complete provision at an early date for the true valuation of all the railroad property of the United States.

I can not refrain from suggesting, Mr. President, that the railroads of this country can no longer afford to oppose this valuation. It is best for them that it should be known. They contend that their railroads are worth the amount for which they are capitalized. The public contends that the capitalization is grossly in excess of the fair value and not a lawful basis for taxing transportation. This great issue between the public and the railroads can be juggled with no longer. It can not be settled by legislation which palliates the wrong. It must be settled by getting the true value, the fair value of railway property. If there is to be an end of antagonism and dissension between the people and the transportation companies, it can be found, sir, in no other way.

Mr. President, when it is remembered that the Interstate Commerce Commission is the only tribunal that stands between the

railroads and the public; when it is considered that the power conferred upon the Commission is the power of Congress itself; that the Commission really represents the Government of the United States, and when we test the bill before us by the obligation of Congress to guard in full measure the public interest with all the sovereign power of the Federal Government, does not the proposed law seem to fall short of a just and comprehensive treatment of a great subject of legislation?

I would not be unfair. The bill is not bad in its provisions, but weak because of its omissions. I do not believe that the bill is framed to meet the demands of "special interests." Nor has any broad consideration of public interest dominated its construction.

It has neither ill intent nor high purpose. Expediency seems to have been the controlling factor in framing it.

It seems a response to the impelling necessity for *some* legislation.

It is probably just to the members of the committee who joined in reporting this bill to the Senate to say that it is their measure of the willingness of Congress to legislate on the subject; that it is as strong a bill as they believe could pass the Senate. But if this bill is not amended to meet the public need, if it should pass without being strengthened and improved, so as to make it a basis upon which to build substantially in the future, then it may as well be understood now that it will not quiet public interest nor prevent further demands. It will become *the issue* of a *new campaign*, more certain, more definite, and more specific than ever before.

This session of Congress will be but the preliminary skirmish of the great contest to follow. On the day that it is known that only the smallest possible measure of relief has been granted the movement will begin anew all over the country for a larger concession to public right. That movement *will not* stop until it is completely successful. The only basis upon which it can be settled finally in a free country is a control of the public-service corporations *broad enough, strong enough, and strict enough* to insure justice and equality to all American citizens.

Why pursue a shortsighted, temporizing course? Is it not worse than folly to believe that a country like ours, with all its glorious traditions, will surrender in this war for industrial independence?

Mr. President, the people of this generation have witnessed a revolution which has changed the industrial and commercial life of a nation. They have seen the business system of a century battered down, in violation of State and Federal statutes, and another builded on its ruins.

They know exactly what has happened and why it has happened.

The farmer knows that there is no open, free competitive market for anything he may produce upon his farm. He knows that he must accept the prices arbitrarily fixed by the beef trust and the elevator combination. He knows that both of these organizations have been given control of the markets by the railroads.

The independent manufacturer knows that he no longer has an open field and a fairly competitive chance to market his product against the trust with its railroad interests.

The consumer knows that his prices are made for him by those who control the avenues of trade and the highways of commerce. The public has suffered much. It demands relief.

Mr. President, Senators in this discussion have avowed that they were not to be influenced by popular clamor; that they have no sympathy with bigotry that is blind to great railway enterprise and the value of the services which these corporations render to the public. It has been denounced as meddlesome interference for anyone to question the right of the railways to fix the markets of this country and to control the destination of its commerce. Public discussion in support of this legislation is rebuked as "noisy declamation," and we are advised that public opinion should be scorned; that it is as shifting as the sands of the sea.

It has been suggested by the Senator from Massachusetts [Mr. LODGE] that we might safely, from time to time, adopt "certain loose and general propositions" in the form of harmless resolutions, "which thunder in the index, and show that we are properly aroused to the dangers arising from corporations generally and from railroads in particular, and which do not commit us to any specific legislation."

Sir, I respect public opinion. I do not fear it. I do not hold it in contempt. The public judgment of this great country forms slowly. It is intelligent. No body of men in this country is superior to it. In a representative democracy the common judgment of the majority must find expression in the law of the land. To deny this is to repudiate the principles upon which representative democracy is founded.

It is not prejudice nor clamor which is pressing this subject upon the attention of this body. It is a calm, well-considered public judgment. It is born of conviction—not passion—and it were wise for us to give it heed.

The public has reasoned out its case. For more than a generation of time it has wrought upon this great question with heart and brain in its daily contact with the great railway corporations. It has mastered all the facts. It is just. It is honest. It is rational. It respects property rights. It well knows that its own industrial and commercial prosperity would suffer and decline if the railroads were wronged, their capital impaired, their profits unjustly diminished.

But the public refuses longer to recognize this subject as one which the railroads alone have the right to pass upon. It declines longer to approach it with awe. It no longer regards the railroad schedule as a mystery. It understands the meaning of rebates and "concessions," the evasions through "purchasing agents" and false weights, the subterfuge of "damage claims," the significance of "switching charges," "midnight tariffs," "milling in transit," "tap-line allowances," underbilling," and "demurrage charges." It comprehends the device known as the "industrial railway," the "terminal railway," and all the tricks of inside companies, each levying tribute upon the traffic. It is quite familiar with the favoritism given to express companies, and knows exactly how producer and consumer have been handed over by the railroads, to be plundered by private car and refrigerator lines, in exchange for their traffic.

The public has gone even deeper into the subject. It knows that transportation is vital to organized society; that it is a function of government; that railway lines are the public highways to market; that these highways are established under the sanction of government; that the railway corporation dictates the location of its right of way, lays its tracks over the property of the citizen without his consent, and that he must market the products of his capital and his labor over this highway, if at all, on the terms fixed by the railway corporation. Or, to say it arrogantly and brutally, as did the president of the Louisville and Nashville Railway Company in his testimony before the Interstate Commerce Commission, that the public can pay the charge which the railroad demands, "or it can walk." In short, sir, the public has come to understand that the railway corporation is a natural monopoly, which has been created by act of government, and that under existing conditions the public is completely at the mercy of this natural monopoly.

Because it is a natural monopoly, because it is the creature of government, it becomes the duty of government to see to it that the railway company inflicts no wrong upon the public, to compel it to do what is right, and to perform its office as a common carrier.

Sir, it is much easier to stand with these great interests than against them. This was true when Adam Smith wrote his Wealth of Nations, and it is true in 1906. Writing of the struggle with monopoly in the eighteenth century, he said:

> The member of Parliament who supports every proposition for strengthening monopoly is sure to acquire great reputation for understanding trade, and also great popularity and influence with an order of men whose numbers and wealth render them of great importance. If he opposes them, on the contrary, and still more, if he have authority enough to thwart them, neither the most acknowledged probity, nor the highest rank, nor the greatest public service, can protect him from the most infamous abuse and detraction, from personal insults, nor sometimes from real danger arising from the influence of furious and disappointed monopolists.

At no time in the history of any nation has it been so difficult to withstand these forces as it is right here in America to-day. Their power is acknowledged in every community and manifest in every lawmaking body. It is idle to ignore it. There exists all over this country a distrust of Congress, a fear that monopolistic wealth holds the balance of power in legislation.

Mr. President, I contend here, as I have contended upon the public platform in Wisconsin, and in other States, that the history of the last thirty years of struggle for just and equitable legislation demonstrates that the powerful combinations of organized wealth and special interests have had an overbalancing control in State and national legislation.

For a generation the American people have watched the growth of this power in legislation. They observe how vast and far-reaching these modern business methods are in fact. Against the natural laws of trade and commerce is set the arbitrary will of a few masters of special privilege. The principal transportation lines of the country are so operated as to eliminate competition. Between railroads and other monopolies

controlling great natural resources and most of the necessaries of life there exists a "community of interests" in all cases and an identity of ownership in many. They have observed that these great combinations are closely associated in business for business reasons; that they are also closely associated in politics for business reasons; that together they constitute a complete system; that they encroach upon the public rights, defeat legislation for the public good, and secure laws to promote private interests.

Is it to be marveled at that the American people have become convinced that railroads and industrial trusts stand between them and their representatives; that they have come to believe that the daily conviction of public officials for betrayal of public trust in municipal, State, and national government is but a suggestion of the potential influence of these great combinations of wealth and power?

During this debate there has been much talk about the country having "hysteria." Magazine writers and press correspondents have been denounced, and there would seem to be an agreement that they are to be pursued and discredited, lest they lodge in the popular mind a wrongful estimate of the public service.

Sir, it does not lie in the power of any or all of the magazines of the country or of the press, great as it is, to destroy, without justification, the confidence of the people in the American Congress. Neither can any man on earth, whatever his position or power, alter the settled conviction of the intelligent citizenship of this country when it is grounded on fact and experience. It rests solely with the United States Senate to fix and maintain its own reputation for fidelity to public trust. It will be judged by the record. It can not repose in security upon its exalted position and the glorious heritage of its traditions. It is worse than folly to feel, or to profess to feel, indifferent with respect to public judgment. If public confidence is wanting in Congress, it is not of hasty growth, it is not the product of "jaundiced journalism." It is the result of years of disappointment and defeat. It is the outgrowth of a quarter of a century of keen, discriminating study of public questions, public records, and the lives of public men.

In the Supreme Court, midway between the Senate and the House, Mr. Justice Brewer has, for a quarter of a century, investigated, analyzed, and construed the legislative work of Congress. A keen and critical observer of men and events, he can speak with wisdom on the development and tendencies of the day, and no man will dare to say that he speaks in passion or with any ulterior purpose.

In an address on "The ethical obligation of the lawyer as a lawmaker," before the Albany Law School, June 1, 1904, he said:

> No one can be blind to the fact that these mighty corporations are holding out most tempting inducements to lawmakers to regard in their lawmaking those interests rather than the welfare of the nation.
>
> Senators and Representatives have owed their places to corporate influence, and that influence has been exerted under an expectation, if not an understanding, that as lawmakers the corporate interests shall be subserved. * * *
>
> The danger lies in the fact that they are so powerful and that the pressure of so much power upon the individual lawmaker tempts him to forget the nation and remember the corporation. And the danger is greater because it is insidious.
>
> There may be no written agreement. There may be, in fact, no agreement at all, and yet, when the lawmaker understands that the power exists which may make for his advancement or otherwise and that it will be exerted according to the pliancy with which he yields to its solicitations, it lifts the corporation into a position of constant danger and menace to republican institutions.

For the first time in many years a great measure is before this body for its final action. The subject with which it deals goes to the very heart of the whole question. Out of railroad combination with monopoly and its power over legislation comes the perilous relation which Mr. Justice Brewer says "lifts the corporation into a position of constant danger and menace to republican institutions."

Sir, we have the opportunity to meet the demands of the hour, or we may weakly temporize while the storm continues to gather.

On Plymouth Rock eighty-six years ago Daniel Webster, looking with prophetic vision into the century beyond, uttered these words, which fall upon this day and generation as a solemn mandate:

> As experience may show errors in our establishments we are bound to correct them, and if any practices exist contrary to the principles of justice and humanity within the reach of our laws or our influence, we are inexcusable if we do not exert ourselves to restrain and abolish them.

Mr. President, our responsibility is great; our duty is plain. If a true spirit of independent, patriotic service controls Congress, this bill will be reconstructed on the broad basis of public interest.

I thank Senators for their attention throughout this protracted address. [Applause in the galleries.]

The VICE-PRESIDENT. Manifestations of applause by the occupants of the galleries are forbidden by the rules of the Senate.

APPENDIX A.

Reviews of evidence submitted before committees of Congress, 1902–1905, showing condition of railway service and abuse of monopoly power by common carriers—discriminations and overcharges.

The complaints made to the Interstate Commerce Commission and to the committees of Congress have established three propositions.

First, discriminations are made by common carriers; second, transportation charges have advanced; third, the railroads delegate to others—private-car, freight, and refrigerator lines—important functions which should only be performed by Government or responsible common carriers. These companies do with impunity that which if done by common carriers would be criminal.

The evidence brought to light the many forms of discrimination which are practiced. There were instances of discriminations against places, against persons, and against commodities. There were discriminations shown in the published tariff rates and in the commodity rates and classifications. It was established that rebates, direct and indirect, special concessions providing additional servece or regular service at less than the published rates, were given to favored shippers. Manufacturer and jobber, producer and consumer complained. The complaints were confined to no one section of the country. They came from every section. Every section suffers in some particular and some in every particular.

DISCRIMINATIONS AGAINST LOCALITIES.

Probably the greatest amount of complaint made before the committees of Congress was of discriminations against localities. The railroads, following the policy of centralizing trade and industry, so as to give to them the greatest amount of transportation and the longest haul of freight, established a system of discriminations designed to ruin all centers or localities not so situated as to serve these ends and to promote and build up those centers and localities which would satisfy their requirements in these particulars. The public interest was not considered. The social economy of serving a given territory from the center which naturally would serve it best and cheapest was rejected as heresy. The railroad managers demand large tonnage, long hauls, large gross revenues.

The railroads are fighting nearly every interior center between the Atlantic coast and the head of the Great Lakes; every center between the Great Lakes and the Missouri River, and every center between the Missouri River and the Pacific coast. Only where water competition enters to control the rapacity of carriers is there any peace or feeling of security.

Interstate Commerce Commissioners testified that hundreds of complaints against the railroads are received which are never heard of because the complainant wants to know, before making the complaint formal, whether the Commission can grant the relief and afford protection from the wrath of the railroad. The railroad is a corporation and may be without a soul and without sentiment, but it has a policy. That policy spells ruin for any helpless enterprise or locality or individual which shall attempt to interfere with its programme of selfish aggrandizement.

DISCRIMINATION AGAINST CITY OF DANVILLE, VA.

This illustration of the city of Danville is possibly somewhat extraordinary. But there are certainly many other equally aggravated cases. The circumstances and conditions are typical of hundreds of places all over the United States. The city of Danville officially submitted, through Judge Aiken, of that city, a petition passed by the common council and the board of aldermen and signed by the city officials. This petition sets forth the exact nature of the situation. It is concise and to the point. It is as follows:

DANVILLE, VA., *April 15, 1905.*

To the Senate and House of Representatives of the United States:

The petition of the city of Danville respectfully represents that it is situated in the southern part of the State of Virginia, in Pittsylvania County, on the Dan River, at a point on the Southern Railroad where the different branches of that common carrier from Alexandria to the north, Richmond to the northeast, Norfolk to the east, and the line from the south and west unite, and has a population of 18,000 or 20,000 inhabitants, and numerous manufactories and mercantile enterprises, besides being a large market for the sale of leaf tobacco. That its principal commercial rivals are the cities of Lynchburg and Richmond, Va., the former 65 miles to the north, and the latter 140 miles to the northeast of Danville.

Prior to the year 1886 petitioner enjoyed equal freight-rate advantages with the said cities of Lynchburg and Richmond through the competition of the railroad runnings north from Danville to Alexandria, known as the "Virginia Midland Railroad," but in that year the Southern Railroad Company purchased the Virginia Midland and deprived petitioner of the competing line and of its equal freight-rate advantages.

That in the year 1890 petitioner, to obtain another competing line of railroad, subscribed a large sum to the construction of a railroad from Norfolk to Danville, which road was built, but after operation a few years as an independent line it was purchased by the said Southern Railroad Company, and since said purchase the petitioner—the city of Danville—has had no competing line of railroad, but in the matter of freight and passenger rates has been entirely subject to the will and mercy of said Southern Railroad Company.

That the said Southern Railroad Company, and its connecting railways and steamship lines engaged in interstate commerce, have, by an agreement between them, established in the State of Virginia certain favored points to which they deliver commodities transported by them from the several States for less rate of transportation than they demand and receive for the transportation of similar commodities under similar conditions to other points in the State of Virginia, the haul and distance to said other points being shorter than to the favored points, by which the said lines of railway and steamship lines give undue preference and advantage to the persons and localities at said favored points. Two of these favored points are the said cities of Lynchburg and Richmond; and petitioner, the city of Danville, and the said two cities have been for many years active competitors for trade in the same territory, and the territory from which petitioner, by

reason of its natural and superior location in the tobacco-growing region of Virginia and North Carolina, has for more than one-half a century drawn its patronage and trade support.

Petitioner states the said Southern Railroad and its waterway connections between Norfolk and the various cities of New England and the Middle States have established and put in force rates of transportation by which commodities and merchandise are transported by them from said northern and eastern points by way of Norfolk and Pinners Point through the city of Danville and delivered for less rates of transportation than similar commodities and merchandise from the same point over the same route are transported and delivered in the city of Danville.

To illustrate the excessive rate of discrimination against the city of Danville, petitioner will state that the said carriers classify freight for transportation, and on class 1, 2, 3, 4, 5, 6, class A, B, C, D, E, F, and H, from Boston and Providence via Norfolk over the said railroad through Danville to Lynchburg, the long haul, the rate is, respectively, 54, 47, 38, 25, 22, 18, 18, 22, 18, 22, 36, 25, 25, and 18 cents per 100 pounds. On the same classes from the same point to Danville, the short haul, the rate is 75, 63, 52, 38, 34, 29, 29, 32, 29, 27, 34, 56, 38, 71, and 26 cents per 100 pounds, making a discrimination against Danville, in favor of Lynchburg, of 39, 34, 37, 52, 54, 61, 68, 45, 61, 50, 56, and 44 per cent on the respective classes. From New York, Philadelphia, and Baltimore over the same route substantially the same rate of discrimination is made against Danville and in favor of Lynchburg on the different classes of freight.

Corresponding rates of discrimination are also enforced against the city of Danville and in favor of the cities of Lynchburg and Richmond on all property transported by the said Southern Railroad and its connections from points south and west of Virginia, the property being carried by said railroad through the city of Danville, the short haul, to the said favored cities, the long haul. Whenever merchandise destined for Danville from points in the West and Northwest over carriers connecting with the said Southern Railroad at Lynchburg reaches Lynchburg, the said Southern Railroad takes advantage of the carrying monopoly it has over property going to Danville and adds on most unreasonable rates from Lynchburg to Danville. For example, the rate on pork and bacon from Chicago to Lynchburg is 27 cents per cwt.; to Danville, 40 cents per cwt. The Southern Railroad charges 13 cents per cwt. for hauling 65 miles that which other roads charge 27 cents for hauling over 1,000 miles. The rate on refined sirup from Chicago to Lynchburg is 27 cents per cwt.; to Danville, 43 cents per cwt. The Southern Railroad charges 16 cents per cwt. for hauling 65 miles for what other roads haul over 1,000 for 27 cents per cwt. A carload of matches is shipped from Detroit to Lynchburg for 24½ cents per cwt. Danville is charged 47½ cents per cwt. The Southern Railroad charges 23 cents for hauling 65 miles what other roads haul 600 miles for 24 cents. On all other commodities, including grain, flour, ship-stuff, and other staple necessities purchased by Danville merchants in the West, as soon as they reach the Southern Railroad the same unreasonable and oppressive rates of freight are enforced against them. Thus it is shown that petitioner, the city of Danville, and its inhabitants are hedged on every side by the discriminating and unreasonable freight rates imposed by the said Southern Railroad Company, and are absolutely barred from the privilege of competing with their commercial rivals for the trade of the public.

Petitioner further shows that several years ago it presented its petition and complaint, setting forth in detail the wrongs herein stated, to the Interstate Commerce Commission, and after a hearing upon evidence the Commission decided that the rates put in force against the city of Danville should cease, and at the same time prescribed what it considered a reasonable rate to Danville; but said Commission not having power to enforce its order the said Southern Railroad did not obey it, but, on the contrary, continued to demand and receive from petitioner and its inhabitants the discriminating and unreasonable rates complained of. Petitioner begs to refer to the record of the case of the city of Danville against the Southern Railroad Company, recorded in the eighth volume of the Interstate Commerce Cases, in support of the allegations of the petition. And petitioner further avers that the rates in force then are in force now against the city of Danville and its inhabitants. The rate from Philadelphia, New York, and other northern markets via Norfolk over the water and railway lines of the Southern Railroad through Danville to Lynchburg, the long haul, on sugar is 21½ cents per cwt., while the rate over the same route to Danville, the short haul, is 26½ cents per cwt. On leather over the same route to Lynchburg the rate is 47 cents per cwt., and to Danville 64 cents per cwt. On coffee over the same route to Lynchburg the rate is 25 cents per cwt., and to Danville 36 cents per cwt. On hardware over the same route to Lynchburg the rate is 47 cents per cwt., and to Danville 62 cents per cwt.

That from New Orleans over the lines of the Southern Railroad through Danville to Richmond and Lynchburg the rate on molasses is 26 cents, sugar 32 cents, coffee 40 cents, rice 32 cents, and on the same articles to Danville 37, 63, 43, and 51 cents.

That from Atlanta, Ga., the rate on furniture to Lynchburg is 34 cents per cwt., and to Danville 64 cents per cwt.

That on grain from Louisville and Cincinnati over the same line through Danville to Lynchburg the rate is 12 cents per cwt., and to Danville 21 cents per cwt.; on flour 12 cents per cwt. to Lynchburg and 24 cents per cwt. to Danville; on meat and lard to Lynchburg 15 cents per cwt., and to Danville 27 cents; and that from every point in the South and West and on all commodities the rate of discrimination is of similar proportion against the city of Danville.

Besides the cities of Lynchburg and Richmond, with which Danville has traded in competition for over fifty years, the said Southern Railroad has begun to discriminate against Danville in favor of two small towns of not more than one-quarter of the population of Danville—the towns of Martinsville, 40 miles to the west, and South Boston, 30 miles to the east, where the Norfolk and Western Railroad competes with the Southern—and said Southern Railroad is now transporting commodities through Danville to both of those points at a less rate of freight than to Danville.

Petitioner in conclusion states that the wrongs and injuries complained of, by which these favored cities, its nearest commercial rivals, trading in the same territory to which Danville looks for trade, are given an unjust advantage of the latter, have been going on for eighteen years and until the consequence is becoming disastrous to Danville. It is depriving it of its trade, cutting down its population, increasing the cost of living to its people, diminishing the value of its real estate, and increasing the burden of taxation on its citizens in order to meet the interest on its corporate debt and the expense of its municipal government. Petitioner asserts that new business enterprises and capitalists seeking investments will not come to the city of Danville on account of the freight discrimination against it, and that extensive enterprises have refused to come and have gone elsewhere for that reason.

Petitioner is advised that railroads are public highways, and the fundamental characteristic of public highways is the right of all persons to use them upon equal terms. For railroads to deny this equality is a misuser of their franchises, and to permit them to build up one city or community at the expense of another, or to oppress the inhabitants of one community with burdens in order that favors may be bestowed upon others, is, it is respectfully submitted, an indefensible act of government.

This petitioner therefore prays that the interstate-commerce act may be so amended as to prohibit such undue advantages as are given the said favored cities over the city of Danville, and as to allow the Interstate Commerce Commission not only to decide what are discriminating and unreasonable rates on freight, but to prescribe and fix rates and to enforce its orders and judgments when they are made.

And petitioner will ever pray, etc.

CITY OF DANVILLE, VA.,
By E. L. SWAIN,
President of the Board of Aldermen of the Council of the City of Danville.
W. P. HODNETT,
President of the Common Council of the City of Danville.

The introduction of this petition occasioned an interesting controversy before the committees of the Senate. The Southern Railway Company, so it is generally believed at Danville at least, procured the appearance before the committees of six citizens of Danville, representing, as they declared, the "big business" interests of Danville. While they did not deny the statements of discriminations as presented by the petition and by Judge Aiken, they declared that Danville was not suffering from these discriminations and that in their business they found the rate satisfactory. This petition they declared was passed at a secret meeting of the city council and represented a manufactured sentiment.

The news of this stroke of railroad diplomacy, received at Danville, aroused a storm of public indignation. A mass meeting was held the following night, at which practically the entire citizenship of Danville, excepting the "six gentlemen," was represented. This mass meeting unanimously denounced the action of these "big business representatives" as "prejudicial and detrimental to the best interests of the city and especially to its mercantile and commercial growth and prosperity." They sent a representative of the city before the committee to expose the incentives of the six self-appointed representatives and the malice of their misstatements. And it developed that in no particular did these gentlemen correctly represent the conditions or their effects. Moreover, it appeared that of these six men three were directors in branch lines of the Southern Railway and also directors in a cotton milling company, which was generally believed to receive special rates on transportation from the Southern Railroad. One of these three was also a merchant and generally believed to be favored in his transportation service by the Southern Railway. A fourth member of this delegation was a director in another cotton milling company, which likewise received special rates, and also president of a bank which had recently been given the Southern Railway's account. The fifth member was a manufacturer of furniture also receiving special rates, and the sixth man was a politician, one of the two members in the city council of thirty who voted against sending the petition to Congress.

Mr. Withers, who appeared to represent the city and the mass meeting, showed that, with reference to outgoing freights, which these gentlemen had said were reasonable, leaf tobacco was the most vitally important of this traffic, constituting about 45,000,000 pounds per year. Much of this is consigned to Louisville, Ky., for manufacture. The rate from Lynchburg and Richmond was 24 cents per 100 pounds, while from Danville—66 to 140 miles less distance and over the same line—the rate was 40 cents.

Being questioned by the committee with reference to the coal rates, Mr. Withers declared that the discriminations on coal to Danville from the various western fields were absolutely prohibitive except from a single source, over a single line—the Norfolk and Western. He said: "We never see a pound of Chesapeake and Ohio coal * * * we never see a pound of Southern Railroad coal. We are not permitted to haul any of the Tennessee coal, the West Virginia coal, the Pocahontas, or from other western fields, and, further, the haul from Lynchburg to these fields is $1.60 per ton, while the haul to Danville is $2.30, a discrimination of 70 cents for a 65-mile haul." And he filed with the committee the coal tariffs, which are full of these discriminations.

This example of Danville illustrates the situation. Danville is an old offender. It refused to accept the yoke of the Southern Railway. In three instances has it attempted by subsidizing competing lines to Danville to break the power which the Southern Railway held over that city. The aggregate municipal indebtedness incurred for this purpose amounts to about $400,000 and constitutes over a third of the total interest-bearing indebtedness of Danville. Each time a competing line has been so built it has finally passed into the control, by lease or ownership, of the Southern Railway. The city is to-day without any benefit from these great expenditures, and it is appealing to Congress for some protection from the reprisals of the Southern Railway.

DISCRIMINATIONS AGAINST THE CITY OF ATLANTA, GA.

Atlanta, like Danville, is situated advantageously for industrial and commercial intercourse with a large surrounding territory—advantageously in all respects except railroad transportation. Atlanta has offended. It has complained. Its rates have been raised; its business has been taken away and bestowed upon favored competitors. It suffers most in competition with the coast city of Savannah, which is protected by water competition; but it also complains of discriminations as compared with other interior cities. Atlanta submits that the average distance to seventy-eight southeastern towns of 4,000 population is from—

	Miles.
Atlanta	288
Savannah	360
Nashville	450
Birmingham	319

Despite the central location of Atlanta, the general and systematic discrimination in freight tariffs precluded the development of the jobbing and manufacturing business. An instance cited before the Commission was the removal of the Pittsburg Plate Glass Company from Atlanta to Savannah, taking with it a weekly pay roll of about $1,000 and 300 to 500 of the city's population. The rate on glass from Pittsburg was 66 cents per 100 pounds to Atlanta, as against 31 cents to Savannah. Because of this discrimination the company could ship to

Savannah and distribute its product into Atlanta territory at so much better advantage than from Atlanta that it was constrained to move its plant.

As illustrating the discriminations against Atlanta jobbers, the rates on boots and shoes from Boston to Atlanta and neighboring centers were cited: Atlanta, $1.14; Augusta, $0.96; Charleston, $0.70; Jacksonville, $0.73; Knoxville, $1; Macon, $1.09; Memphis, $1; Mobile, $0.75; New Orleans, $0.95, and Nashville, $0.91.

These discriminations are maintained in the face of the fact that Atlanta handles about 50 per cent more boots and shoes than any one of the other points. It is notable that these discriminations are not so much in favor of any particular point, but particularly against the city of Atlanta.

DISCRIMINATIONS AGAINST THE CITY OF ST. LOUIS.

The city of St. Louis, in many lines of its business, affords a remarkable example of the policy of the railroads in limiting, so far as within their power lies, the number of basic points or commercial centers. At the city of St. Louis there is the Merchants' Exchange, an organization with a membership of 1,790. It is said to be "the leading commercial organization of the Mississippi Valley." There is also the St. Louis Manufacturing Association, embracing 250 of the principal manufacturing concerns of St. Louis. These two organizations appeared through a common representative, Mr. William Kennett, before the committee of the Senate. Mr. Kennett presented the situation, showing that the rates at St. Louis were in many respects unreasonable, discriminatory, and unstable. He submitted a series of exhibits prepared by the St. Louis Traffic Bureau, setting forth this situation in detail. The St. Louis Traffic Bureau is jointly supported by the Merchants' Exchange and the Business Men's League of that city.

One of these exhibits, for instance, gives the rates on bags and burlap, C. L. and L. C. L., from St. Louis and from New Orleans to forty-three manufacturing centers and consuming points distributed over Illinois, Kentucky, Indiana, Ohio, Missouri, and Wisconsin. Throughout this statement, when the great discrepancy in distance is taken into account, there appear unwarranted discriminations in the rates against St. Louis as compared with New Orleans.

Examples of these rates on carload shipments are as follows:

To Cairo, Ill., from New Orleans, 555 miles, 13 cents per 100 pounds; from St. Louis, 149 miles, 14½ cents per 100 pounds.

To Hickman, Ky., from New Orleans, 521 miles, 13 cents per 100 pounds; from St. Louis, 214 miles, 18 cents per 100 pounds.

To Louisville, Ky., from New Orleans, 789 miles, 13 cents per 100 pounds; from St. Louis, 271 miles, 17 cents per 100 pounds.

To Cincinnati, Ohio, from New Orleans, 830 miles, 14 cents per 100 pounds; from St. Louis, 336 miles, 17 cents per 100 pounds.

To Milwaukee, Wis., from New Orleans, 997 miles, 17 cents per 100 pounds; from St. Louis, 365 miles, 20 cents per 100 pounds.

Examples of these rates on less than carload shipments are as follows:

To Cairo, Ill., from New Orleans, 555 miles, 25 cents per 100 pounds; from St. Louis, 149 miles; 19 cents per 100 pounds.

To Evansville, Ind., from New Orleans, 709 miles, 25 cents per 100 pounds; from St. Louis, 162 miles, 19 cents per 100 pounds.

To Cincinnati, Ohio, from New Orleans, 830 miles, 27½ cents per 100 pounds; from St. Louis, 336 miles, 25 cents per 100 pounds.

To Lexington, Ky., from New Orleans, 748 miles, 27½ cents per 100 pounds; from St. Louis, 376 miles, 38½ cents per 100 pounds.

Another exhibit sets forth that St. Louis is discriminated against in neighboring southeastern cities as compared with Atlantic seaboard and other interior points. Rates are quoted comparatively from St. Louis and from Richmond, Lynchburg, and Norfolk, Va., to six leading business and commercial centers in Alabama and Georgia. This exhibit embraces about 290 rates, and without notable exception these rates uniformly indicate this situation of the discrimination against the city of St. Louis as contended by Mr. Kennett. These rates are given on the six merchandise classes in each instance. I have computed the average rate and the average discrimination on the several classes per 100 pounds of freight in a few typical instances.

For example, the distance from St. Louis to Florence, Ala., is 378 miles, and from Cincinnati is 427 miles. The St. Louis rates average 6½ cents higher per 100 pounds. Similarly the rates to Florence from St. Louis average 14.8 cents higher than from Louisville, Ky., and 7½ cents higher than from Savannah, Ga.

To Birmingham, Ala., from St. Louis, 499 miles, these rates average 6½ cents higher than from Cincinnati, 481 miles, and 15.8 cents higher than from Savannah, 423 miles.

To Montgomery, Ala., the rates from St. Louis, 609 miles, average 6½ cents higher than from Cincinnati, 577 miles, and 24½ cents higher than from Richmond, Va., 754 miles.

To Atlanta, Ga., from St. Louis, 611 miles, the rates average 27 cents higher than from Richmond, Va., 555 miles.

To Macon, Ga., from St. Louis, 699 miles, the rates average 14.8 cents higher than from Cincinnati, 580 miles; and 14.8 cents higher than from Louisville, 560 miles, and 26.2 cents higher than from Richmond, 611 miles.

To Columbus, Ga., from St. Louis, 657 miles, the rates average 23.7 cents higher than from Richmond, Va., 676 miles.

Because the railroads fail to make a through tariff of reasonable rates from St. Louis into the "Cotton Belt" territory of Arkansas, it is cheaper to ship goods—cotton piece goods, for instance—into Arkansas on the local rate, and then to rebill to destination within the State on the Arkansas State railroad commissioner's tariff. For example, the through rate from St. Louis to Fordyce, Ark., is $1.15 per 100 pounds. The rate from St. Louis to Pine Bluff, Ark., is 60 cents per 100 pounds, and the rate from Pine Bluff, Ark., to Fordyce, Ark., under the State railroad commissioner's tariff is 24 cents. The total of the two local rates making 84 cents. This gives the excess representing the unreasonableness of the through rate at 29 cents. A similar situation is shown to prevail with respect to some fifteen other points in this territory.

Another statement submits the rates from St. Louis, from Richmond, Lynchburg, and Norfolk, Va., to the same points. The distance from the Atlantic seaboard and other Virginia cities is about twice as great as from St. Louis. The rates on less than carload shipments from the Virginia cities range from 80 cents to 53 cents per 100 pounds, while from St. Louis they range from $1.17 to 74 cents per 100 pounds. Similar discriminations prevail on commodity rates. For instance, on L. C. L. shipments of bagging the rate from the Virginia cities is 84½ cents, and from St. Louis, one-half the distance, 74 cents per 100 pounds. On canned goods from the Virginia cities it is 70 cents, and from St. Louis 74 cents per 100 pounds; on roasted coffee from the Virginia cities 63 cents, and from St. Louis 74 cents per 100 pounds.

Another statement shows comparatively the rates on wheat, corn, and oats from St. Louis and from Kansas City to eighty or ninety consuming points in Arkansas and Louisiana. The Kansas City rates presented range all the way from 28 to 12 cents per 100 pounds. In every instance the St. Louis rate is exactly 2 cents per 100 pounds higher, representing a discrimination of from 7.2 to 16.7 per cent against St. Louis in favor of the Missouri River points. This discrimination amounts to 0.64 cent per bushel on oats, 1.12 cents on corn, and 1.2 cents on wheat. When grain men have testified that from one-sixteenth to one-eighth of a cent per bushel on grain will determine where the business will go, it is evident these discriminations are sufficient to exclude St. Louis from competition in the distribution of grain to these Arkansas and Louisiana points.

Similarly the roads discriminate against St. Louis in the rates on grain from producing points as compared with the rates to Chicago and New Orleans. This is done in many instances by refusing to make a through tariff from producing points to St. Louis. The accepted reasonable differential from Kansas, Nebraska, Oklahoma, and Indian Territory to Chicago, on account of the much greater distance, is 3 cents per 100 pounds over St. Louis. But the Santa Fe refuses to make through tariffs from many points in these States to St. Louis. The rates from these points therefore must be made up by combinations of local rates. The totals of these locals to St. Louis in such cases gives rates on wheat 1, 2, 2½, and even 3 cents per 100 pounds higher than to Chicago, and 1½, 2, 3, 3½, 4, and even 5 cents per 100 pounds higher on grain.

Another feature of the rate situation at St. Louis which occasioned much serious complaint, is the instability of the differential maintained between the rates from St. Louis to neighboring and distant markets and the rates from Kansas City and other Missouri River points to the same markets. During a recent so-called "rate war," most violent fluctuations occurred in the relation between these rates on grain, owing to discriminations and rate cutting in favor of Kansas City, St. Joseph, Atchison, and Leavenworth, as against St. Louis. Normally (that is for the greater part of the time) a reasonable differential is maintained favoring St. Louis to nearer points, but at times, and without warning, these differentials are destroyed and sometimes even substituted by differentials favoring Missouri River. For example, during the period in question, the normal differential of 4 cents per 100 pounds favoring St. Louis as against the Missouri River in the rate to Memphis, which is only about 300 miles down the river from St. Louis, was changed to a differential of 1 cent per 100 pounds against St. Louis. To New Orleans the differential favoring St. Louis of 7 cents per 100 pounds on grain for export was reduced to only 2 cents per 100 pounds. To Newport, Ark., as well as Hoxie, Walnut Ridge and Nettleton, the favorable differential for St. Louis of 2 cents was changed to an adverse differential of 4 cents. To New York, Boston, Philadelphia, Baltimore, and Newport News the differential favoring St. Louis of 8 cents per 100 pounds on grain was changed to a differential against St. Louis of 3 cents per 100 pounds. And similar fluctuations were complained of as compared with Omaha.

DISCRIMINATIONS AGAINST DENVER, COLO.

The city of Denver is another one of those intermediate points, surrounded by a large consuming territory, which it could serve economically and to the mutual advantage of producer and consumer as a jobbing center. But the railroads have decreed that it shall not be. They have established distributing centers on the Missouri River, and ocean transportation has established others on the Pacific coast. The discriminations in the freight tariffs prohibit any extensive jobbing business between these extremes. Aside from purposes of favoratism to Missouri River cities, this discrimination obviously subserves the railroad interests by preventing the development of adequate jobbing centers in the Denver section, and thereby perpetuating the long-haul traffic in the less than carload freight at high rates from the Missouri River to all this territory.

It is the selfish interests of the railroads only that are considered. The consumers want a convenient jobbing center; it is demanded by the public interest generally. Naturally, Denver wants to do this business and feels keenly the injustice which denies this privilege to which its right is clear.

The Denver Chamber of Commerce and Board of Trade and the Denver Freight Bureau, a shipper's institution, united in sending Mr. William A. Hover to Washington to lay the situation before the committee of the Senate. Mr. Hover submitted a most exhaustive statement, setting forth in hundreds of illustrations and freight-rate comparisons the systematic discrimination which prohibits the commercial development of the city of Denver.

Through all this extensive territory lying about Denver, extending over Wyoming, Utah, New Mexico, and parts of Idaho and Montana, there is no jobbing center of importance. The bulk of all merchandise and supplies to all this territory must be shipped in by the retail dealer from the head of the Lakes, Missouri River, or the Pacific coast, at rates of freight ranging from $1 to $4 per 100 pounds. This condition is maintained by the refusal of the carriers to make reasonable rates to and from Denver, based on its relative nearness to the sources of supply and its central location with reference to consuming points. Rates to Denver from eastern points are higher than to the Pacific coast and as high as the rates to other interior points several hundred miles farther west. The local rates from Denver to tributary points are so high that, when added to the rates to Denver, the combination is absolutely prohibitive of the distribution of traffic through this center. As illustrations of this situation with reference to Colorado consuming points, I take the following from Mr. Hover's statement:

"In making these comparisons I will in most cases, in order to save time and a useless array of figures, speak in terms of first class.

"From Denver to Douglas the distance is 275 miles, from Omaha to Douglas 584 miles, over a territory of about the same character and at about the same cost of construction. The rate from Denver is $1.11½ per 100 pounds; from Omaha, $1.86. Adding to the Denver rate the Colorado common-point rate of $1.25 makes the Denver combination $2.36½ to Douglas. The Denver rate to Douglas is built up as follows: The Union Pacific and Colorado and Southern combine on a rate to Orin Junction, distant from Denver 261 miles, of 80 cents. To this is added a prohibitive local by the Fremont, Elkhorn and Missouri Valley Road of 31½ cents arbitrary from Orin Junction to Douglas, a distance of 14 miles.

"To Casper the Denver rate is $1.52, distance 328 miles; from Omaha, $1.90, distance 637 miles. Combination via Denver, $2.77, with a prohibitive local from Orin Junction of 72 cents for a 67-mile haul."

With reference to discriminations against Denver in the nearby consuming territory of Wyoming, a similar situation is set forth.

Similar discriminations are also presented for those portions of Idaho, which, because of the direct railway connections are in a measure tributary to Denver, as a distributing center.

In the case of Utah points, a still more aggravated situation is depicted. Mr. Hover said:

"It is in dealing with the Utah situation that we find the most extreme instances of discrimination. Utah can more properly be considered Denver territory in competition with Missouri River points than can localities in either Wyoming, Idaho, or Montana. The State of Utah bounds Colorado on the west, and depends for transportation of westbound commodities on two lines of railroad owned and controlled by two of our great transcontinental systems—namely, the Harriman system and the Gould system—by the former over the Union Pacific from Omaha to Ogden, and by the latter over the Rio Grande Western from Grand Junction, Colo., to Salt Lake City, the Rio Grande Western being the outlet for both the Colorado Midland and the Denver and Rio Grande at Grand Junction. From Denver, through the medium of the two latter roads, we have direct connection with Utah, and a certain percentage of the westbound tonnage consigned to Utah points passes through Denver over one or the other of these two lines. Therefore Denver can justly claim the right of distribution into this territory on the same terms that are accorded Missouri River towns, St. Louis, Chicago, and other eastern points. On the present basis of rates, however, Denver merchants can not even get into Utah on as favorable a basis as the merchant located in San Francisco who ships his goods through Denver to San Francisco and back again to Salt Lake City, which fact I will later prove.

"The following are the competitive class rates to Utah common points, consisting of Ogden, Salt Lake City, Spanish Fork, and intermediate points:

	First.	Second.	Third.	Fourth.	Fifth.
From Chicago and Duluth	$3.10	$2.65	$2.15	$1.75	$1.45
From Missouri River	2.30	2.00	1.70	1.43	1.18
From San Francisco and California common points	1.72½	1.50	1.27½	1.07	.88¼
From Denver	1.85	1.60	1.36	1.15	.96
Denver combination based upon the Missouri River	3.10	2.60	2.16	1.80	1.46

"In other words, the Denver merchant is discriminated against in favor of the merchant located on the Missouri River to the extent of 80 cents, first class; 60 cents, second; 46 cents, third; 37 cents fourth, and 28 cents, fifth, and this discrimination extends clear back to Atlantic seaboard territory. Such commodities as we produce in Denver are likewise discriminated against in favor of eastern centers. For instance, beer from our Denver breweries takes a 70-cent commodity rate to Utah common points, and the same rate applies from the Missouri River, notwithstanding that Denver is distant from Omaha 572 miles and from Kansas City 640 miles. On packing-house products the rate from Denver is 73¾ cents, against $1.18 from the Missouri River. Generally speaking, however, it is on the class rates that the greatest discrimination exists. This difference against Denver diverts practically all the business moving under class rates from Denver to eastern centers. The situation as applied to Utah is particularly aggravated in view of the fact, as before recited, that San Francisco merchants can ship through Denver, through Salt Lake City, to San Francisco on a commodity rate and return the same goods to Salt Lake City on the local rate, and for less than the same goods can be unloaded in Denver and reshipped to Salt Lake City, notwithstanding the fact that San Francisco is distant from and beyond Salt Lake City 826 miles, while Denver lies 627 miles to the east of that point. Referring to the above table of rates you will note that Denver pays $1.85 to Salt Lake City, a distance of 627 miles, against a return rate of $1.72½ from San Francisco and California common points to Salt Lake City, a distance of 826 miles.

"I will now proceed to show how the application of this combination of rates will admit of the possibility, as above set forth; for instance, a mixed car of drugs, patent medicines, chemicals, etc., takes a commodity rate from New York of $1.40 a carload to California common points. This rate, combined with the local back of $1.72½, lays the goods down in Salt Lake City for $3.12½. To Denver the same commodities take a water rate via Galveston of $2.33 per 100 pounds, or an all-rail rate of $2.72 per 100 pounds. Adding to these rates the local out of Denver to Salt Lake City of $1.85 brings the cost of these commodities when shipped to and from Denver to $4.18, when the water rate is taken advantage of, and $4.15 on the all-rail rate. I will take the case of a wholesale boot and shoe dealer doing business in Denver and in San Francisco; rubber boots and shoes take a commodity rate from New York to San Francisco of $1.35 a carload. Adding to this the local first class back to Salt Lake City of $1.72½, and the cost is to the Salt Lake dealer $3.07½. To Denver the wholesaler pays for his good coming by way of the water line via Galveston $2.33, and if they come by all rail $2.72. Adding to these figures the local of $1.85, it will cost to lay them down in Salt Lake City $4.18 in the one instance, and $4.57 in the other instance, as against the San Francisco rate of $3.07½. These comparisons can be multiplied almost indefinitely and will apply to nearly every commodity handled by wholesalers located at either point. The conditions as pertaining to Utah business are more fully set forth, and comparisons more completely made in a table which is marked 'Exhibit G.'"

Similar discriminations are set forth in detail in the other exhibits covering the rest of this Denver territory.

DISCRIMINATIONS AGAINST SPOKANE, WASH.

At Spokane a rate situation in many respects worse, if possible, than at Denver is shown. Mr. Brooks Adams, who appeared before the Senate committee on behalf of the Chamber of Commerce at Spokane, presented a situation of grossest discrimination against Spokane as compared with the coast cities 318 to 400 miles farther west. One reason for this discrimination is the competition which exists at coast points with water transportation.

The rates on all supplies from eastern sources to Spokane are made up by adding together the rates from the point of shipment to the coast plus the local rates from the coast back to Spokane. This makes the cost of all commodities for consumption at Spokane much greater, and the cost of living therefore much higher, than at the coast cities, which receive supplies and material over the same lines and through the city of Spokane. On class freight the amount of these discriminations per 100 pounds is as follows: First class, $1.48; second class, $1.33; third class, $1.02; fourth class, 82 cents. On the carload classes it ranges from 50 to 70 cents per 100 pounds; that is, it costs the receiver of freight at Spokane this amount per 100 pounds more on these several classes on all freight from points east of the mountains than the cost of hauling the same freight through Spokane 400 miles farther to the coast.

The carload traffic moves largely under commodity rates, and as illustrations of the situation with regard to this traffic a table was submitted showing these commodity rates, side by side, for Spokane and the coast cities. This table embraces 83 commodity rates from Boston, New York, Chicago, and the Missouri River points to Spokane and to the coast cities, and covers carload shipments of 76 different commodities. In every instance the rates to Spokane are very much higher than to the coast cities about 400 miles farther west. A few examples of these rates are as follows:

Commodity.	Rates per 100 pounds.		Excess for Spokane.	
	Coast.	Spokane.	Amount per 100 pounds.	Per cent.
Agricultural implements from New York and Boston	$1.25	$1.75	$0.50	40
Building paper from New York	.75	1.29	.54	72
Wrapping paper from New York	1.20	2.00	.80	67
Agricultural implements from Chicago	1.25	1.65	.40	32
Canned goods from Chicago	.95	1.35	.40	42
Coffee from Chicago	.90	1.38	.48	53
Clothing from Chicago	1.50	2.35	.85	57
Dry goods, etc., from Chicago	1.00	1.85	.85	85
Cotton, duck, and denim from Chicago	.90	1.75	.85	94
Nails and wire from Chicago	.65	1.10	.45	69
White lead from Chicago	.80	1.21	.41	51
Agricultural implements from Missouri River points	1.15	1.45	.30	26
Average of 83 commodity rates to above points	1.231	1.957	.726	59

On ten important commodities selected at random from the table submitted to the Senate committee there is in every instance gross and unwarranted discrimination against Spokane. On these ten commodities the rates to the coast cities range from 65 cents to $1.50 per 100 pounds, and to Spokane from $1.10 to $2.35 per 100 pounds. The excess in the rates for Spokane ranges from 30 cents to 85 cents per 100 pounds, and the per cent of excess against Spokane ranges from 26 to 94 per cent. On the whole 83 rates presented in Mr. Adams' table the average of the rates to the coast is $1.231, and to Spokane $1.957, showing an average overcharge for Spokane of 72.6 cents per 100 pounds, or 59 per cent. That is, on the average carload shipment under the commodity rates Spokane pays about 60 per cent more freight charges than the coast cities are charged for 400 or 500 miles greater service over the same line, a large proportion of the coast freight passing through Spokane en route.

It is not only as a consuming and distributing point that Spokane complains of discrimination in freight rates, but as a manufacturing center as well. Manufacturing growth is prohibited, and that development already attained is being undermined and destroyed by these systematic discriminations and overcharges. The discriminations submitted—for instance the rates on iron and steel articles—are prohibitive of any industry in which these commodities enter as important raw material. On most of this material the rates to Spokane from the Pittsburg district are about $10 per ton more than to the coast. On plain castings from Chicago the Spokane rate exceeds the coast rate by an amount equal to $14 per ton. An incident in this connection was related by Mr. Adams in this language:

"Up until a little over a year ago the freight rate on pig iron from Alabama to Spokane was $21.50 per ton, or $6.80 per ton more than the coast rate from the same point. The only way local manufacturers were able to force a reduction of the rate was to buy the pig iron in the foreign market, have it shipped as ballast to Portland, and thence by rail to Spokane. By this arrangement they were enabled to get their pig iron laid down in Spokane at a cost of $27.80 per ton, against $30.80 per ton if shipped from Alabama. The railroads seeing that a reduction would have to be made to meet the so-called "water competition, secretly made a rate of $13 per ton, the coast rate, which rate was later published."

Similarly, the sash and window manufacture as an extensive industry at Spokane has been killed by the freight rate discrimination on window glass from Pittsburg. The following is Mr. Adams's statement:

"In the manufacture of sash the pine and cedar lumber of eastern Washington is much superior to the coast fir, yet, while there are five factories engaged in the manufacture of sash in Spokane, they manufacture only for local trade, and there are two concerns in the city which compete with the local factories and buy their sash from coast factories. The rate on window glass from Pittsburg to Spokane is $1.38½ per 100 pounds. The rate to Portland, Seattle, and other coast points is 90 cents, thus enabling the coast manufacturers to furnish the finished product for the price of glass to the Spokane manufacturer. The William Musser Lumber and Manufacturing Company, which started in business here in 1902, would have invested $75,000 in a sash factory and employed 50 hands, if it would have been possible to get a 90-cent rate on glass. The railroads also allow the coast manufacturers to ship sash in mixed carloads with lumber, which takes the lumber rate, hence enabling them to lay down manufactured sash in Spokane for $1.10 freight charges against $1.38½, the rate charged for glass to Spokane manufacturers. Every sash factory in Spokane would be forced out of business if it were not for the steady local market demanding special sizes, which are included in the regular millwork for new buildings. The wonderful building activity of Spokane in the past five years made it possible for the mills to manufacture sash. As it is, the coast manufacturers supply the local market for nearly all sash in regular sizes."

Discriminations in the rates against the lumber industry at Spokane are presented by Mr. Adams in the following comparisons:

"The rate on lumber from Portland, Oreg., Seattle, Wash., and kindred territory to Spokane, Wash., is 20 cents via the northern lines.

"The rate on lumber from Spokane, Wash., and kindred territory to Portland, Oreg., Seattle, Wash., and like territory is 26 cents via the northern lines."

* * * * * * *

"The rate on lumber from Portland, Oreg., via the Northern Pacific, to St. Paul, Minneapolis, and Duluth, Minn., is 40 cents.

"The rate on lumber from Spokane and kindred territory to the same points, is 40 cents, although the haul is in no case less than 540 miles shorter and in some cases 625 miles, via the same line."

* * * * * * *

"The rate on lumber, via the Great Northern, from Seattle and kindred territory to St. Paul, Minneapolis, and Duluth, Minn., is 40 cents.

"The rate on lumber from Spokane and kindred territory, via the Great Northern, to St. Paul, Minneapolis, and Duluth is 40 cents, although the haul is on an average of 400 miles shorter."

* * * * * * *

"The greatest distance lumber is hauled east from Portland, Oreg., on a 20-cent rate is not less than 687 miles.

"The greatest distance lumber is hauled east over the Northern Pacific from Spokane on a 21-cent rate is 385 miles, and this rate is made by various combinations which do not include all articles manufactured from lumber included in the regular classification."

* * * * * * *

"The greatest distance lumber is hauled east from Seattle, via the Great Northern, is 348 miles on a 20-cent rate.

"The greatest distance lumber is hauled east from Spokane, via the Great Northern, on a 20-cent rate is 216 miles."

As an illustration of a manufacturing industry being driven away from Spokane by the freight-rate discriminations, after it had been established and was doing an extensive business from Spokane, the experience of the Pacific Coast Pipe Company was submitted by Mr. Adams in the following statement:

"The Pacific Coast Pipe Company started to manufacture wired wooden pipe in the spring of 1900. The company owns patents on the machinery it uses, and started with four hands. There was at that time but one factory of this kind on the north Pacific coast, located at Seattle. The rate on manufactured pipe from Seattle to Spokane was 46 cents per 100 pounds C. L. plus the local rate from Spokane to all points east. This rate was entirely satisfactory and enabled the Spokane factory within a little over three years after beginning operations to increase its plant to 50 hands, with an investment of $50,000. The Seattle factory, backed by the big lumber firms on the coast, finding a serious competitor in the Spokane field, got the railroads to put manufactured pipe under the lumber classification, thus reducing the rate from Seattle to Spokane from 46 to 20 cents per 100 pounds.

* * * * * * *

"Prior to the cut rates in favor of the coast the Spokane factory had as territory all of eastern Washington, Idaho, and Montana, and, as stated above, was shipping pipe at the rate of two carloads per day. The loss of the factory here means the loss of fifty families and a pay roll of about $3,000 per month. It is needless to say that water competition did not enter into this rate discrimination, as no wood pipe is shipped via ocean to interior points. You must understand that while the railroads, under the protest of the local factory, put back the rate to 46 cents from Seattle to Spokane, refused and are still refusing to adjust the rate to points east of Spokane; hence wood pipe manufactured on the coast takes the lumber rate in all territory east of Spokane, thus making it impossible for a Spokane factory to compete in this territory. Considering the increased cost of manufacture at Spokane and the fact that there is not sufficient business to maintain a factory without outside territory, the Spokane factory had to be abandoned."

THE SMALLER PLACES.

The foregoing illustrations, taken from the testimony, give some idea of the discriminations in freight rates in force, as they affect a few of our larger cities. These are cases in which the evidence is definite, clear-cut, and all to the same effect. They are conspicuous examples. Less conspicuous, perhaps, but far more important to the consuming public, is the far-reaching, systematic discrimination which exists against the smaller cities, towns, and hamlets in every State. The small place is hopeless and helpless. There is no railroad competition at these points. In most instances there never has been any. It is the common practice to make the rates to such places just as high as the rates to the big commercial center beyond, with little reference to how much farther it is beyond. Frequently, particularly in the western part of the country, this rule is varied so that the small place pays the rate to the competitive point beyond plus the local rate back. In other words, over large sections of the country, small places are in substantially the same position with reference to the larger places that Spokane holds with reference to the Pacific coast terminals.

This situation was set forth by Judge Cowan in his testimony, as follows:

"Let me call your attention to the fact that a merchant situated in a little town east of a given commercial emporium in thousands of cases in this country must pay the rate of freight to the farther distant point and the local rate of freight back."

Interstate Commerce Commissioner Fifer appeared before the Senate committee and submitted several illustrations of this form of discrimination. One of these instances was the case of the city of Charlotte, a city of 20,000 population, lying half way between New Orleans and the Virginia cities—Richmond, Lynchburg, and Norfolk. In this case the rates from New Orleans to Charlotte were twice as high as from New Orleans to the Virginia cities, to which the traffic passed through Charlotte. That rate per ton per mile in these cases was four times as great to Charlotte as to the Virginia cities.

Another illustration of the same thing is the "blanket" or postage-stamp schedule, applying from all territory between the Atlantic Ocean and the Missouri River to the Pacific coast. The rate generally is exactly the same from Omaha, Chicago, Pittsburg, or New York, or any other point in all this territory to the coast, even though the distance be twice as great in one case as in the other. Commissioner Fifer declared that under the law as at present interpreted by the court there was no corrective for this sort of discrimination.

DISCRIMINATION AGAINST COMMODITIES.

By classification.—Conspicuous examples of discrimination against commodities are found throughout freight classifications. The hundreds of changes in classification of commodities from one class to another by the railroad classification committees in the last few years bear testimony to this fact.

Classification of freight is based on what the traffic will bear. It is a part of the rate. There is scarcely any evidence in the classifications that any rule of reason or science has been applied. It is a case of "cut and try." The tariff expert puts the commodity in a class, and then, if the complaint is too vigorous, he probably lowers it, and if not he raises it until he thinks it yields all the revenue the traffic will bear. Thus the classification of a commodity often depends largely upon the financial strength of the concerns principally interested in its production and distribution. Such a system could not but lead to discriminations. Moreover, it leads to confusion. Very often the railroad officials are themselves unable to agree as to the meaning of the classifications.

Mr. Wagner, a manufacturer of North Milwaukee, gave the committee an instance in his experience in attempting to "deal directly with the railroads," which is illustrative of the success in such undertakings of small shippers who are not favored. In part, Mr. Wagner said:

"We are making large quantities of rough, unfinished hardware, which we have been shipping out to our customers for a number of years as 'iron forgings,' taking a fourth-class rate. Last year the inspectors raised all our shipments to 'ferrules,' taking a third-class rate, and making a difference of about 50 per cent in our freight rates. We took samples of these goods and submitted them to the Chicago, Milwaukee and St. Paul officials here, also, to the Milwaukee official of the railroad inspection bureau, and they both agreed with us in calling the goods 'iron forgings,' entitling them to the fourth-class rate. We then corresponded with the chairman of the official classification committee, who has control of the inspection, giving him data which showed that according to the value per pound, weight per cubic foot, and finish of the goods the fourth-class rate should apply. The railroads claim that these three items are what determine the classification of an article.

"Our communication was not acted upon favorably, and as there was a meeting of the committee at Chicago, the writer went down there and saw Mr. Gill, the chairman, personally, but without doing any good. He remarked to me at the time that this difference in classification on that portion of our product would amount to only a few hundred dollars a year, and if I would spend the same time and energy in some other branch of our business it would bring better returns financially. In the light of our previous experience of four or five years in endeavoring to secure equitable rates, etc., his remark was certainly true, but is it not a sad commentary on the state of affairs in a country like ours that this should be the case?

"Aside from the justice or injustice of our claims, is it not placing a tremendous power in the hands of one man, or let us say a committee of a dozen men, all paid and controlled by one of the interested parties—that is, the railroads—to determine absolutely whether any shipper or consumer shall pay a just rate or something far higher? Where is there a more powerful trust than this little committee which is accountable to no one but its masters, who are interested in securing high rates, and which controls this subject absolutely without appeal over the greater part of our country?"

There was another instance of similar character presented to the committee. In this case the complainant was a large manufacturing concern with over a million dollars invested, who tried to "deal directly with the railroads," too. This manufacturer gets out a sectional bookcase. This case is capable of compact crating in small pieces. It was entitled, seemingly, to a lower classification than the common bookcase, which is big, clumsy, and occupies much space in proportion to its weight. The roads refused to allow any reduction from the regular classification that had applied to bookcases for a quarter century—namely, one and one-half times first class. In view of the argument that the making of rates should be left with the roads in the interest of facility of business between shipper and carrier—that changes may be promptly made to meet changing conditions, etc.—it seemed to this manufacturer that he would do well to persist. So he tried to see the chairman of the "Official Classification Committee." He said, "I assure you he was harder to get at than the Czar of Russia. A shipper stood just as good a chance of interviewing that man as he would to interview the Czar of Russia."

Still another illustration of this point is the case of Mr. Cabot, who testified before the committee. Mr. Gregory S. Cabot, the largest manufacturer in the United States of carbon black (dry color for printing ink), testified that while the market value of his product had gone down from 60 cents to 4 cents per pound, its classification by the railroad companies had been advanced and the cost of transportation thereby increased, and this in spite of the fact that the method of packing had been so changed that it is possible to carry practically twice as many pounds per carload.

"In less than carload, the classification was in the beginning first class; in 1887 it was advanced to one an one-half times first class. In carloads, 1887, the classification was sixth class, same as other forms of dry paint; in 1889 it was advanced to third class and maintained until January, 1905, when it was raised to second class, rule 25, or an advance of about 10 per cent. And all this time there was a constantly and rapidly increasing quantity of traffic in this commodity."

Discriminations against live stock.—One of the most far-reaching and damaging discriminations brought to the attention of Congress in these hearings was the discrimination against live stock and in favor of packing-house products and dressed meat. Live stock furnished about 12 per cent of the entire traffic of the Western roads. The rates on live stock vitally affect the entire agriculture of all this Western country, from the breeding country in the south to the feeding country in the north. Every man that grows stock, or that grows crops to be fed to stock, is interested in this matter. In all this country the freight rate to the central market is taken out of the pocket of the producer and the grower. The live stock to the market is the property of the farmer and the ranchman; he pays the freight, or, if he sells locally, it is taken out of his price. Packing-house products and fresh meats are the property of the beef trust.

Uniformly throughout the country there is an unwarrantable discrimination against live stock as compared with these trust products. At the same time, the trust product is the more expensive of transportation. From St. Paul to Chicago the proportional rate on dressed meat was cited by a representative of the Chicago Live Stock Exchange as 13½ cents per 100 pounds, while the rate on live stock was just twice as high.

Judge Cowan, representing the Texas Cattle Raisers' Association, cited a case brought by the Chicago Live Stock Exchange "before the Commission, involving the right of the railroads to charge the shippers a higher or greater rate for the transportation of cattle than they charge the packing houses on the Missouri River for a longer distance. That case was decided a few days ago, and it was held that such a discrimination was unjust and unlawful and that the shippers are entitled to a rate of 18½ cents per 100 pounds for the shipment of cattle to Chicago if the packers are entitled to 18½ cents per 100 pounds for the dressed product. The decision was manifestly just and ought to be enforced."

The beef trust, which could stand a fair rate, is favored; the grower and feeder, whose business yields a small profit, sometimes a loss, and

is at best always precarious, must stand the high rate, the extortion. Mr. Fifer, of the Interstate Commerce Commission, calling attention to the importance of just rates to consumers and producers before the Senate committee, declared:

"You take a man on the plains of the West—a cattle raiser who has a thousand head of cattle; he markets them in Chicago or New York; the rate may be ever so high. Perhaps a million human beings eat that beef, and the excessive rate is divided up to that extent. A load under which a single man will stagger two will carry with ease and ten will not feel it at all.

"But how is it with the producer who has the thousand head of cattle? All he has in the world is perhaps invested in his herd, and it is a matter of the most vital importance whether he pays 50 cents a hundred or whether it is 5 cents higher, making 55 cents a hundred. He is the man that feels the excessive rate."

Discriminations against grain and American milling.—Still worse, if possible, than this discrimination against live stock is the discrimination against grain, particularly against wheat for domestic consumption, as against the shipments of the same commodities for export to foreign countries. It is answered by the railroad that this discrimination opens the foreign market to our grain. This is true, but the same market would take our grain as finished product in the form of meal and flour if the preference were shown these commodities instead. But the purpose of this discrimination is not benevolent. So the direct opposite condition prevails in this respect, and flour receives an adverse rather than a favorable discrimination.

The purpose of these discriminations is to force our wheat and grain into foreign hoppers to be ground in order to give the grain-elevator trust complete control of our cereal crops from the field to the consumer abroad. This is a railroad-made trust. Through elevator concessions and other forms of railroad favoritism it has come about that one elevator company has a monopoly of the grain business on each line of railroad. As the several lines of railroad are built together by joint ownerships, "communities of interest," etc., these several elevator companies are built together and directed with a perfect comity and accord of business policy. There is practically no competition among them. They constitute, outside of the milling industry, in effect, one purchaser of the great cereal crops of the country.

The milling business is one of the leading industries of the country. It has developed a capacity probably twice our entire wheat crop. It is distributed over thirty-three States. Neither its ownership nor control are as yet centralized to any important degree affecting competition. The mill market is a really competitive market for the producer of American cereals. This milling industry is therefore a thorn in the side of the grain-elevator trust, and is marked for destruction by the railroads. It is deliberately proposed to ruin a large portion of this great industry through systematic discrimination. A reduction in the milling capacity of the country such as is contemplated will give the grain trust absolute power to fix the price on our surplus cereal products.

From the statement before the House committee by F. H. Madgeburg, representing the Millers' National Association, I quote the following as showing the effectiveness of these discriminations:

"In 1900 the aggregate flour exported was 96 per cent of the entire export of wheat, while in 1901 (after the discriminations were established favoring wheat) it had dropped from 96 per cent to 55 per cent, owing to the discrimination practiced."

Mr. B. O. Eckart, a Chicago miller, representing the Board of Trade and the Illinois Manufacturers' Association, declared before the committee:

"That it is unfair and unjust to a great industry of this country to compel us to pay a tariff rate of 17½ cents a hundred on flour from Chicago, for instance (i. e., to New York), and at the same time to carry wheat on a secret cut rate of 8 or 10 cents per 100 pounds. It practically means confiscation of so much milling property."

Mr. E. P. Bacon testified that wheat from Missouri River points was carried to New York for export in competition with the Gulf ports at a rate of 13 cents per 100 pounds, "and the bill of lading in stating that rate had indorsed upon it a statement that if used for domestic consumption at New York" the rate should be 25½ cents per 100 pounds, or practically twice the export rate.

Because of the discrimination in favor of grain shipped for export, because similar advantages are not given to flour shipped for export, because such flour is not given the benefit of milling in transit rates the milling industry of this country is not permitted to compete in foreign markets upon the same footing as the grain trust.

The significant feature of this discrimination is that its object is to build up and perfect a monopoly.

The purpose of this monopoly is to control the market of the cereal produce of the American farmer, and when it is perfected the growers of grain will be in substantially the same position as the producer of crude petroleum in Pennsylvania.

DISCRIMINATIONS AGAINST PERSONS.

It was asserted by the railroad, and accepted by the Interstate Commerce Commission, that under the operation of the Elkins law the practice of giving rebates to favored shippers was for the most part discontinued. The railroad company is no longer dividing its income to any considerable extent with any of its patrons through the direct rebate. The railroad representatives profess to be glad of this. If true, it certainly would save the roads much money, and it would probably also operate to greatly increase indirectly the amount of the transportation taxed upon the people, paid in the price of supplies and manufactured articles.

But still there are favored shippers who through various occult influences maintain with the railroads friendly relations which enable them to obtain special concession and favors which give them very material business advantages as against their competitors not similarly favored. Every great industrial trust is inseparably bound up through the "community of interest" with one or more of the great railroad groups of the country. The comity of business policy and relations existing among these railroad groups is such that a trust is a privileged shipper on practically every railroad in the United States.

Discriminations in tariffs.—These discriminations take various forms. Sometimes they appear as discriminations in the published tariff rates. It is set up by the railroad attorneys before the United States court that the only test of the lawfulness of a rate is the fact that it is published; and the court sustains their case.

In competition with such favored shippers a small business has little chance. The roads refuse to consider the complaint, in some instances even failing to accord a courteous hearing of the complaint.

There appeared before the committee of the Senate a manufacturer of Milwaukee, who was making hardware specialties, among them springs and axles for children's vehicles. He said his principal competitors were at Toledo and Pittsburg. He had to get his raw material from Pittsburg at a rate of 18½ cents per 100 pounds. He was seeking to build up a market at St. Paul and Minneapolis. From Milwaukee to the twin cities, 335 miles, the witness testified that his rate on axles and springs was 40 cents per 100 pounds. His Toledo competitor reached the same market, a distance of 600 miles, for a rate of 37 cents on axles and 42 cents on springs; and the Pittsburg competitor, 800 miles away, at 37 cents on axles and 48 cents on springs. The combination of rates on the raw material to Milwaukee plus the rate on finished product effected a discrimination such as to practically exclude the Milwaukee manufacturer from competition in that market. "As a result," he said, "we must see business that belongs to us go to competitors several hundred miles farther away from this district than we are, or give up a large profit to hold the trade."

"Subterfuges" for rebates—"Concessions."—Attention is directed to the testimony before the Senate committee, on April 29, 1905, of Mr. James H. Hiland, third vice-president of the Chicago, Milwaukee and St. Paul Railway Company, relating to the giving of rebates:

"Senator CULLOM (of the committee). Is there any subterfuge that enables them (the railroads) to give a rebate without making it a rebate?

"Mr. HILAND. There are subterfuges that can be adopted and made the means and channels for concessions in rates. They are not rebates.

"Senator CULLOM. Are they means of concessions that ought not to be granted under the law? Are the railroads, in other words, living up to the law?

"Mr. HILAND. I would like to answer that, Senator, by saying they are concessions. Whether they are lawful concessions or not I do not know."

There are "concessions" and there are "subterfuges" through which certain shippers are favored. Whether they are in violation of law, Mr. Hiland, third vice-president, in charge of traffic of one of the greatest railroad systems in the country, had not found out from his legal department. It should not require recourse to the legal department for Mr. Hiland to know that these "concessions" and "subterfuges," if not rebates in a technical sense are precisely to the same effect, and in fact are practices which the law was framed to prevent. It is not a question of the name, but of the thing itself. And these subterfuges are the same, and in fact are the things which the act of Government has stamped as pernicious and made punishable as a criminal offense.

Some illustrations of the nature of these "subterfuges" and "concessions" I take from the testimony given by Mr. C. W. Robinson, a lumber manufacturer, who came before the committee on behalf of the New Orleans Board of Trade and the Central Yellow Pine Association:

Rebates through purchasing agents.—Railroads use large quantities of lumber and timber for building and construction purposes. In fact, the railroad companies are about the largest purchasers by contract of such material that ever enter the market. "Very generally," says Mr. Robinson, "purchasing agents have been instructed to buy supplies from parties who are large shippers over their respective lines, and there is a great possibility of the direct rebate being given through the office of the purchasing agent." It may be added that there are many other lines of supply, of which the roads are extensive buyers, such as iron and steel, coal, and lubricating oils. Most of the latter is said to be purchased of the Standard Oil Company.

Switching charges.—Another one of these "subterfuges" which is very fruitful of special advantage to large shippers, particularly at competitive points, is "the absorption of switching charges at terminal points on shipments which originate at competitive points, and the refusal to absorb switching charges where the shipment originates at noncompetitive points."

The following is an instance of this practice cited by Mr. Robinson in the lumbering business:

"At Cincinnati there is a large buyer of lumber whose yard is on 'Hazen's switch.' Said switch is located on the Cincinnati, Lebanon and Northern Railway, and to reach such switch from the tracks of the Louisville and Nashville road cars must pass over the Eggleston Avenue track of Pittsburg, Cincinnati, Chicago and St. Louis Railway, and thence over the Cincinnati, Lebanon and Northern Railway. These roads charge the Louisville and Nashville $6.50 to $9 per car for switching, and on lumber which originates at noncompetitive points, on the Louisville and Nashville Railway, the producer must pay this switching in addition to the regular published tariff rates; but if the lumber originates at a competitive point, then the Louisville and Nashville pays this switching charge and by so much depletes its tariff rate."

"The midnight tariff."—A commonly practiced method of discrimination between persons, particularly in the lumber business, is the promulgation of special, or what are sometimes called "midnight tariffs." Mr. Robinson cites the following as an example in his knowledge. To quote Mr. Robinson: "Early in the year 1905 the Southside Elevated road, of Chicago, was in the market for about 400 carloads of sawed and planed cross-ties, and bidders are asked to name a price f. o. b. Chicago.

"The blanket rate on ties and lumber (and such ties are nothing but one kind of lumber) from the entire yellow-pine belt to Chicago is 26 cents per 100 pounds. A number of bids were submitted to the Southside Elevated road, and, so far as I can learn, all the bids were rejected as being too high. Effective March 22, 1905, the Illinois Central Railroad issued its tariff, D–12013, I. C. C. No. 3153, in which tariff a rate of 26 cents per tie is named on yellow-pine ties to Chicago from (points) Luzon, La., to Pearl, Miss. (a distance of about 100 miles). The tariff contains a provision reading 'cars must be loaded to the full loading capacity, but not in excess of 10 per cent beyond their market-weight capacity. Ties to be billed at 165 pounds per tie.' On April 6 the Illinois Central promulgated another tariff (C–12013, I. C. C. No. 3171), canceling the previous tariff. The new tariff named the same rate per tie, the only difference being that the weight is given as 130 pounds per tie, instead of 165 pounds. Assuming that the weight per tie, as given in the last tariff, is correct, this makes a cut from the regular tariff on lumber of 6 cents per 100 pounds, or reduces the lumber rate from 26 cents per 100 pounds to 20 cents per 100 pounds on this particular class of lumber and on this particular piece of road."

Any manufacturer located on this particular piece of road who had been favored by the Illinois Central Railroad (and the presumption is warranted that there were such) with advanced information of the cut rate which would prevail during this comparatively short time would, of course, be in a position to underbid competitors and furnish the material. After shipment was made under this contract the rate went back to where it stood before. There have been instances of this kind cited in which the cut rate remained in effect not longer than a week. Some of the lumber of the favored shippers was loaded ready for shipment when the tariff issued.

Abuse of "rebilling rate" (from Mr. Robinson's testimony).—"An-

other abuse is what is known as the 'rebilling rate.' By rebilling rate is meant a rate by which goods received in unbroken carload lots over one railway can be rebilled over the same or another line, completing one continuous trip of the same commodity, simply changing the consignee and altering the destination of the identical shipment, without unloading or handling of freight. Such rates or privileges are greatly abused, and are the source of a great amount of indirect rebating. To illustrate—and I must ask you to pardon the use of a fictitious road, but which really and truly represents several roads—on the St. Louis and Cartersville road, not many miles out of St. Louis, is the town of Hawkinsville, Ill., which town has a population of about 1,000 people. The blanket rate on yellow-pine lumber to Hawkinsville from all points in the yellow-pine belt is 24 cents per 100 pounds.

"To St. Louis, Mo., the blanket rate is 20 cents per 100 pounds, but on lumber consigned to Hawkinsville the roads south of the Mississippi River are allowed 18 cents of the through rates, the St. Louis and Cartersville road receiving the remaining 6 cents of the through rate. At Hawkinsville there is no agent of the car-service association. By a secret understanding between the St. Louis and Cartersville road and certain favored shippers, cars may be held at Hawkinsville, for, say, fifteen days without any car service accruing, and then be billed or reshipped to any point in the central traffic association territory, and the name of the consignee changed. Let us assume that lumber shipped to Hawkinsville is rebilled to Johnsonville, in the extreme northern part of Ohio, the through rate to Johnsonville from the yellow-pine belt being 31 cents. The St. Louis and Cartersville road, with its connecting lines, gets 12 cents per 100 pounds from St. Louis to Johnsonville, the result being that the through rate is reduced from 31 to 30 cents, and no car-service charges to follow. Hundreds of carloads of lumber are shipped to Hawkinsville yearly, only to be rebilled as outlined, and in the States of Illinois and Ohio there are other points at which the same practice is in full force."

Abuse of "milling in transit."—Another form of special favor to shippers cited by Mr. Robinson is the abuse allowed by the railroads to be made by certain shippers of the so-called "milling in transit rates." Some roads make to some manufacturers of lumber, for example, a special rate, which comprehends the transportation of logs to the mill before manufacture and of lumber from the mill to market after manufacture. This device opens wide the door for favoritism and discriminations.

"Tap-line allowances."—A reduction in the rate called a "tap-line allowance" is made to lumber manufacturers having logging roads, the amount conditioned upon the length of the logging road, the amount of traffic, and any other condition which the railroad choses to consider. The conditions being different in each case, the opportunity is afforded in practice to make what amounts to a special rate to each manufacturer. The manufacturer who has the greatest commercial power secures the largest concession.

Mr. Robinson describes this form of discrimination, as follows: "For a number of years all the roads in the yellow-pine region west of the Mississippi River have given to sawmills operating on their lines and having logging roads an allowance of from 2 to 4 cents per 100 pounds of through rate; roads east of the Mississippi River, with the exception of the Mobile and Ohio Railroad, have declined to make to mills on their lines any allowance whatever, or allow them any participation in the through rate, notwithstanding that some of the mills in Mississippi have logging roads 30 to 40 miles in length. This practice is unfair and gives to the manufacturer of yellow-pine lumber enjoying such a participation in the through rate an advantage of from 60 cents to $1.80 per thousand B. M. in freight allowance."

At these hearings Mr. Gardner, a lumber manufacturer of Laurel, Miss., also testified that manufacturers east of the Mississippi were discriminated against as compared with manufacturers west of the river by an allowance called a "tap-line allowance," which was universally granted west of the river to manufacturers having logging roads on which traffic originated, but which was not granted to manufacturers east of the Mississippi. This discrimination amounted to from 2 to 6 cents per 100 pounds, or 60 cents to $1.80 per 1,000 feet of lumber. Mr. Gardner estimated that 50 per cent of the southern pine in five States west of the Mississippi moved at less than tariff rates because of these allowances. Further, he declared "that the methods of making rates down there through the South have a tendency to consolidate interests and make unreasonable rates and to make practically what are discriminations by allowances to originating roads. Some of them get as high as 6 cents out of a 16-cent rate, where the mill and the road are the same thing."

Underbilling.—A form of indirect rebate is what is known as underbilling. A shipment is carried by the railroad for a favored shipper, and when the waybill and expense bill are made out the weight of the shipment is put down as several hundred, or possibly several thousand, pounds less than the actual weight. The favored shipper gets free the amount of transportation represented by the difference betwen the actual and the "billed" weight. It is evident that a published tariff is no protection for any shipper from a discrimination of this sort.

A shipper, testifying before the Senate committee of facts within his own experience and knowledge, said: "A railroad company may publish rates, but there are ways of getting around those rates. For instance, a car is misrepresented—that is, the contents of it is—and I have asked the Interstate Commerce Commission to say that a railroad company should know what it is doing. A railroad man a little while ago told me that these goods were not billed right. Now, he therefore put the shipper in this position: That if the shipper is going to determine what he is going to pay he is going to deliver the car accordingly, and the railroads in many cases in the country don't know what goes into a car and don't know what goes out. I know of a point where 150 cases of strawberries was systematically loaded on a car upon which there was never any freight paid, and the rate was 21½ cents a crate. * * * It is done to-day."

The industrial railroad.—The industrial railroad is another loophole for the payment of indirect rebates. There is a switch, or possibly a spur track, quarter of a mile in length, running into the yards or works of a manufactory, mine, or jobbing warehouse. A paper railroad is organized by the industrial concern—a company to own this "railroad." Then this "railroad," which is really only a switch, becomes the "terminal road" for all traffic received at this plant and the "originating road" for all traffic shipped out. It is entitled to a division of the tariff rate on this traffic, a "proportional," as it is called. This proportional is big to the favored concern and small or nothing to the little one. It is in proportion to the "pull" or the bargaining power of the shipping concern. Every great industrial trust has a full complement of such "railroads."

There was a case of this kind before the Interstate Commerce Commission brought, I believe, by the independent salt mills at Atchison, Kans., involving gross discriminations in favor of the salt trust. The trust received from the railroad, according to Mr. Davies, about 35 per cent of the tariff rate on shipments merely for the use of a switch at the trust plant. The evidence in this case has been with the department of justice a year or two and nothing has been done. Presumably nothing can be done under the law. Mr. Davies, of Chicago, gives this illustration:

"In Chicago there is an Iroquois coal company. That coal company has its rate. They transport coke from Pennsylvania or West Virginia to that point. I think the distance is over 600 miles. The freight rate on that kind of coke is $2.60 per ton, and they deliver to the switch in Chicago on what they call 'Chicago Short Line,' and it is a very short line, because it is nothing more than a switch, into the Iroquois Iron Company's yards, and they pay that Iroquois Iron Company no less than 40 cents a ton."

Demurrage charge.—Similar to the absorption of switching charges, as already explained, is the discrimination in the charges for demurrage, so called. On all carload shipments there is a time limit set by the railroad companies, or through the organizations of the several railroads, known as "car-service associations," on the detention of cars at points for loading or unloading. A fixed per-diem charge is made for any such detention over twenty-four or forty-eight hours—that is, it is made to most shippers. For favored shippers this demurrage charge may be absorbed and nobody except the party to the transaction be the wiser. "In other words," to quote from the testimony, "in fixing the charges it is not the commodities that are shipped on the American railroads to-day that determine what the service is worth; it is the chromo of the shipper."

Organized industry favored.—Because of the "community of interest" existing among the "big business" enterprises of the country and the railroads of the country—because of the mutual graft, if you please—it is a settled policy of the roads to favor organized industry in almost every point. Said Mr. Davies in his testimony, "If you will organize a big trust and go to a railroad company and tell them that it is organized in that way, you can get 30 per cent reduction from the fact that you are organized." Being challenged to cite an example of this discrimination in his own knowledge and experience, he replied: "To my knowledge I paid more for the transportation of a carload of strawberries from Tennessee (to Chicago) than the through rates on the packing-house products from Kansas City to Liverpool, England. The rate to-day on bananas imported by way of New Orleans or Mobile gateway is 47 cents per 100 pounds, with an 18,000-pound minimum, as against the transportation of strawberries on the basis of 20,000-pound minimum at 51 cents, and that rate involves 15 cents per 100 pounds for icing, and there is a messenger carried on the banana train that is not carried on the other."

Interstate Commerce Commissioner Prouty appeared before the Senate committee. He declared that, in his judgment, the most serious form of discrimination that the country would have to contend with in the future is this discrimination as it appears in the open published tariff rates, and he cited the favoritism of the Standard Oil Trust. He declared, "You go out in New England to-day and you will find the 'freight' tariff put absolutely into the possession of the Standard Oil Company, every foot of the territory of the New York, New Haven and Hartford Railroad. You will find that class of discrimination all through this country. I think in the future that class of discrimination will probably be more serious than the question of rebates. That is really not a discrimination against localities. That is discrimination as between shippers. That is the adjustment of a tariff in such a way as to prefer one shipper to another."

On this subject Mr. Joseph Bartells, of St. Paul, a jobber of independent oil, cited the following discriminations with which he found it necessary to contend in his business in Minnesota. He said that the rates on oil had been raised by the railroads at the solicitation of the Standard Oil Company from 17½ to 19½ cents per 100 pounds between Pennsylvania and Chicago, and from 15 to 20 cents per 100 pounds between Chicago and St. Paul. This makes the total through rate for the independent product to St. Paul 39½ cents. The independent dealers are obliged to make their prices based on the freight rate. The Standard pipes its oil to Chicago, and also enjoys special concessions on freight shipments. It can therefore make its prices independently of the published freight tariff. For example, Mr. Bartells cited the Standard Oil prices in the middle of last April as 8 cents per gallon at St. Paul and 12 cents per gallon at Fergus Falls, Minn., while the difference in rate was only 1½ cents per gallon.

ENORMOUS ADVANCES IN FREIGHT RATES.

Since January, 1900, freight rates have taken great jumps. Directly or indirectly the entire industrial field has been affected. One result is that the people of the country are now paying annually about $200,000,000 (I. C. C. estimated $155,000,000, 1903) more per year for transportation service than they would pay were the old rates still in force. These advances are in force in every section of the country. They are in force on nearly every important article of freight shipment. Many of them were put in force through advance in classification of commodities for shipment. Of the three classifications covering the merchandise traffic of the country one shows 572 commodities so advanced, another 531, and the third, 240. In addition to these advances there were very great advances on several most important articles of shipment in commodity rates, such as iron and steel, soft coal, and lumber. Besides these the public burden has been increased by the greatly increased cost of transportation by private car and freight line companies.

Advance in rates on hay.—Among the most conspicuous and important commoditites directly affected by these advances in the classification of freights is hay. Mr. John B. Daish, representing the National Hay Association, stated before your committee that the trunk line railroads had carried hay and straw from the West to Eastern markets as sixth-class freight for thirteen years. The rate under this classification from Chicago to New York, for instance, was 25 cents per 100 pounds. With the advance of January, 1900, hay went to the fifth-class, rate, Chicago to New York, 30 cents per 100 pounds. At the same time grain was being carried to New York at 15 to 17½ cents.

These advances in the transportation of rates on hay, being made in the form of a classification, necessarily affected all shipments within the "Official Classification" territory. Mr. English, a dealer in hay for many years, submitted statistics showing that nearly one-half of the hay crop of the country was produced in Wisconsin, Minnesota, Iowa, Missouri, Nebraska, and South Dakota. He said, "I think in the last two years (i. e., since the advance) not one ton of that hay has

come East * * * to the seaboard markets. Taking this hay from the sixth class and putting it in the fifth class increases the freight on hay from $1 to $2.60 per ton, according to the distance of haul and the location Prior to that we in Baltimore frequently brought hay from west of the Ohio River. We shipped hay from Ohio and Illinois and Wisconsin and all the Western States. I have been in the hay business for well on to twenty years, and prior to this time we considered Illinois and eastern Iowa our best source of supply, but in the last two years (i. e., since the advance) I have not handled a carload of hay from Illinois and very little from Indiana."

In effect, this advance in the classification of hay has practically excluded the hay crop of the North Central States from the Eastern markets.

In April, 1904, the Interstate Commerce Commission, in compliance with the resolution of the Senate, presented a memorandum showing the effect of these advances in increased freight charges to the public. The advances were found to range from 40 cents to $1.50 per ton, and were estimated to average 80 cents per ton. The estimated shipments affected were 3,420,980 tons yearly, and the advance was placed at $2,434,000 annually. The total amount of this advance to the date of the report was placed at $10,000,000.

Advance in rates on sugar.—Another one of these advances in classification was sugar, which was likewise advanced from the sixth to the fifth class. And the people of the United States have paid out on this advance to date something over $5,600,000.

Advances in rates on live stock.—The most vigorous complaint before the Congressional committees against advances and overcharges in freight rates was that which was made by the live-stock interests. These excessive rates for the transportation of live stock vitally affect the prosperity of the whole agricultural West. The agriculture of nearly all of this whole section derives the largest part of its money income from the sale of live stock. Live stock is the most valuable, single, finished product of this great industry. It constitutes about 12 per cent of the total tonnage of the traffic of the western railroads. It is probably largely because of its great importance that the railroads have steadily advanced the charges for hauling and handling this traffic. Even a slight percentage of advance in the rates on traffic of so great volume and so high class would obviously yield an enormous increase of revenue to the carriers.

Most conspicuous among the complainants against these advances and overcharges was the Cattle Raisers' Association of Texas, represented by Judge Sam H. Cowan, of that State. The advances complained of by the cattle raisers of the Southwest affect almost equally all live-stock regions. The rates most complained of are those on which cattle are shipped from breeding grounds of the Southwest to feeding grounds in the Northwest. It is this character of overcharges that have bankrupted the stock-feeding industry of Iowa and other Western States. So extensive is this specialization by localities in the breeding and feeding branches of this industry become that any oppression of this traffic must necessarily operate most injuriously through the whole live-stock industry. Said Judge Cowan in his testimony, "That is an extensive business, and there have been some 400,000 head of cattle shipped that way in the last two or three years. When we had the trail and the cattle were driven the railroads thought it profitable to transport them at $55 per car. But the settlement of the country and the closing of the trail destroyed that competition, and so from time to time the railroads have advanced the freight rates, so that to-day the rate is $100 per car, for which they were glad at one time to accept $70 per car, and are even undertaking to pay rebates to get business."

Judge Cowan further declared that the advances in rates on this class of traffic alone amounts to not less than $3,000,000 annually.

The importance and character of the "cattle raisers' " complaints are best appreciated from an examination of their complaint submitted in the case brought by them before the Interstate Commerce Commission, a copy of which complaint is put in by Judge Cowan as part of his statement before the Senate Committee. The following important statements are made, the proof of which the Cattle Raisers' Association has laid before the Interstate Commerce Commission:

The Cattle Raisers' Association, of Texas, embraces about 1,500 members, engaged in all branches of the cattle business, principally in the States of Texas, New Mexico, Oklahoma, Arizona, and Indian Territory, and the States of Colorado and Kansas, and, to some extent, in Nebraska, Wyoming, South Dakota, and the Republic of Mexico. The membership of this association owns approximately 4,000,000 cattle in these States and Territories.

The principal markets named are Kansas City, St. Joseph, South Omaha, St. Louis, Chicago, Fort Worth, New Orleans, Denver, and Pueblo, Colo. Many shipments are made from the Southwest to the Northwest for grazing and feeding purposes.

The complaint charges that "all of the interstate rates applicable to all interstate shipments of cattle and other live stock from all points in said States and Territories are unjust, unreasonable, and unlawful," and that the rates put in force in 1899 and subsequently were "likewise unjust and unreasonable," and, as instancing the advances in freight rates on beef cattle in the preceding five years, the compalinant submitted a statement of representative rates showing such advances from 1898 to 1903. From this statement it appears that from ten important shipping points representing Texas, Oklahoma Territory, and Indian Territory the rates to Chicago, St. Louis, and Kansas City markets had been advanced during this period in amounts ranging from 4½ to 9½ cents per 100 pounds, or from 12 to 31 per cent.

The complaint further avers that the roads conspired and confederated to bring about these advances, charging that on February 1, 1899, a joint arrangement was made among them whereby the rates on beef cattle from all southwestern points to markets were advanced about 2½ cents per 100 pounds. It further charges that in like manner about December 15, 1899, the rates from all Texas, Indian Territory, and Oklahoma Territory and New Mexico were advanced about 3 cents per 100 pounds, and the rates from other points were advanced in like manner and for amounts not stated. Other advances have also been subsequently made, particularly about March, 1903, there was another advance of 3 cents per 100 pounds, making the cattle rates which have been maintained.

The complaint goes on to state that the rates in 1898, before the advances were substantially what they had averaged for the preceding ten years, and the increases which made the rates higher than for fifteen years were unwarranted. It is further offered that these interstate rates are from 20 to 30 per cent higher than the local rates within States where the rates are regulated by law. The following examples are cited:

Texas local rates, beef cattle or calves, 500–550 miles, 26½ cents per 100 pounds; 650–700 miles, 30 cents per 100 pounds.

Interstate rates, beef cattle and calves, Fort Worth and north Texas points to Kansas City, 500–550 miles, 36½ cents per 100 pounds.

North Texas points to St. Louis, 600–700 miles, 42½ cents per 100 pounds.

"And by the local distance tariff of the States of Illinois and Iowa, rates on cattle and other live stock are proportionally still lower than those of Texas, while local rates in Kansas, Missouri, and Nebraska are not substantially higher than local rates for similar distances in Texas."

The complaint also states that, in addition to these advances, the roads have ceased to grant free return passage for shippers to go with and care for their live stock in transit, but require the payment of the regular fare for the return passage.

The advances are not justified by advances in the value or price of live stock, "as is well known to the defendants, and are of less value on the markets to-day than at any time in many years, and the burdens of excessive rates of freight to-day bear more heavily upon the producers of cattle than at any time in the past, so that upon shipments from southwestern Texas, western Texas, New Mexico, and Arizona, the rates of freight to the markets, upon ordinary range cattle, which are the kind produced and shipped, take from 30 to 50 per cent of their value."

The complaint further declares that the advances are not justified by any improvements in the character of the service. "As to this, complainant says that the service has not improved; that cattle trains, as a rule, are not run at any greater speed; and, in fact, as complainant believes, the service is poorer than it was ten years ago, both in the manner of handling cattle and other live-stock shipments and in the time consumed in their transportation, and is therefore less valuable than it was ten years ago."

Attention of the Commission was called to the $2 terminal charge at Chicago, "imposed, charged, and collected, since June 1, 1894," by all roads entering Chicago. "Complainant avers and charges that the same was and is an unreasonable exaction added to and collected in addition to said unreasonable transportation charges, and that the service for which it purports to have been imposed, viz, for delivery to the Union Stock Yards at Chicago, was and is comprehended in the through rate.

"Complainant says that said through rate to Chicago at all times comprehended the service of transportation of live stock to said Union Stock Yards upon the Chicago rate from all points in said States and Territories, and that the same was at all times sufficiently high to afford a reasonable compensation for such transportation from points in such States and Territories to the Union Stock Yards at Chicago, including the delivery there of such live stock. That such terminal charge is therefore unjust and unreasonable, and in violation of section 1 of the act to regulate commerce. Complainants further show that no such charge is made at any of the other markets, and that under the circumstances the imposition of such charges at Chicago constitutes an undue and unreasonable prejudice and disadvantage to shippers who ship, or desire to ship, to said market, and is therefore in violation of section 3 of the act to regulate commerce."

In addition it is charged that the roads exact additional payments for the feeding of cattle on trains and that the charges so exacted are 50 per cent more than the value of such feed.

As evidence of the correctness of these statements regarding the advances in the rates, Judge Cowan submitted part of the testimony of Mr. Haile, freight traffic manager of the Missouri, Kansas and Texas Railway Company, in the hearing had before the Interstate Commerce Commission:

"Mr. COWAN. There has been a general complaint of an advance in rates, has there not?

"Mr. HAILE. Yes, sir; there has been complaint."

* * * * * * *

"Mr. COWAN. The advances which were made in those rates made them higher than they had ever been before?

"Mr. HAILE. I think they are.

"Mr. COWAN. Is it not a fact that for ten years previous to the advances made in 1899 the rate from Fort Worth, for example, which would be a fair one, had never been more than 31½ cents per 100 pounds?

"Mr. HAILE. I will tell you. I think that is substantially true, Mr. Cowan."

* * * * * * *

"I find that such rate was, in 1889, to Kansas City, 28½ cents, and it was advanced from that figure up to 33 cents, where it remained for a series of years, and was reduced again to 28 cents, and then advanced to 33½ cents, and then again to 36½ cents.

"Mr. COWAN. The 36½-cent rate to-day is a higher rate than has existed since the organization of the Interstate Commerce Commission, and since we have had a file of the tariffs with them?

"Mr. HAILE. Yes, sir.

"Mr. COWAN. What else could you expect, then, than that the cattlemen would complain of the advances in these rates?

"Mr. HAILE. Oh, I expect them to complain."

Mr. Murdo MacKenzie, a cattle raiser, operating one of the largest ranches in the country, appeared before the committee to complain of these advances in freight rates. He testified that at one time, under conditions of active competition, the rate per car from Amarillo, Tex., and common points to northern feeding grounds had been $55. He said:

"Next year they came to us and asked if we would not agree to raise the rate to $65 per car; that if we would agree to give them $65 the rate would be satisfactory to us, and that it would be perfectly satisfactory to them. That was a paying rate. * * * That was in 1890, if I remember well. This state of affairs continued up until 1898. In 1899 they increased our rate, and from year to year continued increasing our rate, until to-day we are paying them $100."

With reference to the deterioration in the service obtained, Mr. MacKenzie testified that it is necessary to unload cattle to feed more times in transit, because of the slower rate of travel, which is only ten to twelve miles per hour. The cattlemen ask that the rate be eighteen to twenty miles per hour. They say that such rate of speed is necessary to the welfare of their business, and it is certainly not excessive.

In this connection Mr. MacKenzie testified before the committee of the House, "Up to 1897 I could go to a railroad company and tell them that I would give them from ten to twelve cars on a train and they would give me a special train. But now they will not move any freight unless they get the full tonnage of a train—the full tonnage that the engine is rated to carry. In many instances they overrate their engines, so that they will not make more than seven to ten miles an hour. I have had shipments on the road—I have had from 3,000

to 5,000 cattle on the road—and I have got a service of from seven to ten miles per hour.

"Now, gentlemen, it would be impossible for me to tell you or explain to you the losses we entail unless you are cattlemen; in fact, I do not know about it myself * * * I do not know how these things are arrived at, but I know the loss to us is enormous."

The loss in the shrinkage of cattle on account of say 24 hours' delay is 25 pounds to 40 pounds per head. Mr. MacKenzie said, "I take it at 25 pounds, and deduct that from the weight of a steer that will sell for $4.50 per hundred, and you will see that we lose a little over $1 a head on every steer we ship to market. * * * Now, gentlemen, when you think of it, you may suppose that 25 pounds is a very small thing in the weight of a steer, and that it don't make any difference. But here is a poor little devil who has been working hard all the year feeding his cattle with high-priced corn, and with the poor price of cattle on the market he must lose $1 per head. What show has he got to go into the courts to make the railroads pay for this? He has none; and even if he does succeed it takes him years to get it, and costs him more than the whole thing is worth."

Mr. MacKenzie testified that the rates for shipment of cattle to market had been increased also by changing from a rate per carload to a rate per 100 pounds. This did not appear directly from the tariffs, but was none the less burdensome in fact. The rate per car had been $62.50 to Kansas City. The rate was changed to 28 cents per 100 pounds, and the minimum carload weight set at 22,000 pounds. Had this weight been fair and practicable in fact there would not have been necessarily any increase in the rate. But, as a condition of the proper shipment of cattle, it is necessary to load cars to a certain limit. This means about 25,000 pounds per car on the average, and at 28 cents per 100 pounds this meant $70 per car, or an increase of $7.50 per car. But the railroad tariff officials tried to make the shippers believe that the rate had not been raised.

In 1900 the rate per 100 pounds was raised to 31½ cents, making the rate $78.75, or $8.75 higher than after the first increase, and $16.25 higher than before the carload rates were withdrawn. In 1903 the rate per 100 pounds was again advanced, this time to 34½ cents per 100 pounds, making $86.25 per carload of 25,000 pounds, or $7.50 more than had been charged since 1900, and representing a total increase per carload of steers over the carload rate in force in 1898 of $23.75, or about 38 per cent.

As instancing the unreasonableness of these advances, Mr. MacKenzie related an experience with the traffic officials. At the time when the rate from Amarillo and common points to Kansas City, 500 miles, stood at 31½ cents (before it was raised the last time to 34½ cents), the shippers went to the roads and complained, citing the rate from Las Animas, Colo., to Kansas City, 500 miles, 23½ cents per 100 pounds. The roads admitted the discrimination and, to "help" the Texas cattlemen, raised the rate from Colorado to Kansas City to 26 cents, although the Colorado rate had previously been satisfactory to them, i. e., the roads.

Another witness who came before the Senate committee to complain of the railroad oppression of the live-stock industry was Hon. W. A. Harris, formerly United States Senator from Kansas, who appeared as representative of the American Short Horn Breeder's Association, an extensive live-stock organization. Mr. Harris strongly indorsed the correctness of the sentiments and statements of Judge Cowan. He declared that the cattle rates in the Southwest had in the last five or six years been advanced 25 or 30 per cent.

Another petitioner to the committee of the Senate was the Chicago Live Stock Exchange, which handles practically all the live stock received at this, the greatest live-stock market of the world. The statement of the exchange setting forth the "terminal charge" extortion at the Union Stock Yards, in part, follows:

"For the past eleven years this exchange has been fighting for its patron's interests against the extortion by the railroad companies in the matter of the 'terminal charge' of $2 per car, which, on June 1, 1894, was added to the freight on each and every car of live stock shipped into or out of the Union Stock Yards of Chicago on western railroads. This amount was put on by the railroads to cover a charge varying from 80 cents to $1.50 per car, begun at that date by the Chicago Junction Railway Company for the use, by the various railroads, of tracks connecting the terminals of said roads with the Union Stock Yards and owned by the Junction Railway Company. A storm of indignation arose, and every shipper protested, and the Chicago Live Stock Exchange, on behalf of those shippers, at once instituted proceedings to remove the charge. The matter was brought before the Interstate Commerce Commission as the proper tribunal to give redress, and, notwithstanding the efforts of the railroads, its decisions have always been favorable to the exchange, and at least one-half of the charge was declared unjust and unreasonable. The United States Supreme Court confirmed the Commission's view. * * *

"The exchange, however, has never been able to prevent the continued collection of this charge by the railroad. The hundreds of thousands of men who have suffered for eleven years and are still suffering this extortion feel that some means should be devised for their protection. There have been over $6,000,000 taken from them under this charge without one cent of additional benefit."

ADVANCE IN RATES ON LUMBER.

In February, 1903, an advance was ordered by the roads of 2 cents per 100 pounds, or $8 per car, in all rates on Southern pine lumber, from all Southern producing points, from Georgia to Texas, inclusive, to all markets north of the Ohio River, to all points in Middle and Eastern States—to practically all markets to which this lumber is shipped. So far as the evidence shows, no justification has been offered by the roads for this advance, except that the traffic is able to bear the burden of the higher rates.

Mr. Robinson, representing the New Orleans Board of Trade, before the committee of the House told of a hearing had at Atlanta to consider complaints of the lumbermen against these advances. He said: "Mr. Culp, traffic manager of the Southern Railroad, was on the stand. He was asked to explain why this raise of the rates on lumber was made. As nearly as I can remember his exact language it was this: The railroad companies, desiring to share in the general prosperity of the country, looked around to see who could stand an advance in rates. In their judgment—mark you, in their judgment—the manufacturers of lumber in the Southern States were prosperous and could stand a raise in rates. Therefore they raised the rates."

The statement before the Senate committee by Mr. Gardner, a lumber manufacturer of Mississippi, was to the same effect. There is no competition in this traffic. The only limit recognized by the roads is what the traffic will bear. Mr. Gardner went to Mr. Harrihan, general manager of the Illinois Central Railroad, to complain of excessive rates on lumber, and Mr. Harrihan's reply to Mr. Gardner, as he quoted it to the committee, was: "You people are prospering anyway, and when times get so hard that you can not do business, then we will reduce your rate."

This advance in the rates means an average increase of 60 cents per 1,000 pounds in the price of Southern lumber in the Northern market. It affects directly all the extensive consuming territory north of the Ohio River and east of the Mississippi. It is estimated by the Interstate Commerce Commission that this advance in freight rates applies to annual shipments of lumber amounting to 20,000,000 tons. On this basis, the total amount collected annually under this advance would be about $8,000,000, and, if it is figured from the time the advance was made, 1903, to the present time, this advance probably amounts to about $25,000,000. This is what it has cost the consumers of lumber to have the roads advance these rates. This is the significance of this little 2-cent advance in the freight rates.

Aside from these excessive rates to Northern markets, Southern lumber dealers complain bitterly of the rates for local distribution of this product. On this traffic the rates are often still more exorbitant. An illustration of this situation was given by a committee representing the Missouri, Kansas, and Oklahoma Territory Association of Lumber Dealers. The illustration shows how the roads use their monopoly power to extort exorbitant rates for transportation of freight at noncompetitive or nonfavored points in the distribution of Southern lumber to consumers in Kansas and Oklahoma. In this case the shipment originates in Texas. The committee statement is as follows:

"Let us suppose a train load of lumber originates at Conroe, Tex., on the Atchison, Topeka and Santa Fe Railroad, and let us suppose that this lumber is distributed along its line to Chicago, the distances and rates will be as follows:

	Distance.	Rate per 100 pounds.
	Miles.	*Cents.*
Gainesville, Tex	342	18½
Ardmore, Okla	382	25
Purcell, Okla	449	26½
Guthrie, Okla	513	28½
Wichita, Kans	653	28½
Topeka, Kans	815	28½
Lawrence, Kans	842	23
Kansas City, Mo	882	23
Chicago, Ill	1,340	24

"And all points between Carrollton, Mo., and Chicago on this line get a 24 cent rate. You will notice that the rate to Gainesville, Tex., and Ardmore, Okla., jumps up 6½ cents per 100 pounds in a distance of 40 miles, or 30¼ mills per ton per mile, whereas the through rate to Chicago is 3.6 mills per ton per mile. The rate increases in inverse ratio to the distance the lumber is carried. This is not an isolated case, but this is a fair sample of the lumber rates adopted by all the roads operating in the State of Kansas and in Oklahoma.

"Texas originates lumber within its own State, and has a stringent State railroad law. This accounts for the advance in freight as soon as the road strikes Oklahoma, and also emphasizes the necessity of an interstate railroad law. The distance from Conroe to Chicago is more than twice the distance from Conroe to Wichita, and yet the rate to Chicago is 24 cents, while the rate to Wichita, over the same road, under precisely similar conditions, is 28½ cents per 100 pounds."

ADVANCES ON SOFT COAL.

In the early part of 1903, advances in rates on soft coal were made throughout the official territory, which are estimated by the Interstate Commerce Commission, to average about 10 cents per ton. The tonnage affected is estimated to be something over 100,000,000 annually. Based on this amount, the advance of 10 cents per ton would be over $10,000,000 a year. And if this rate is maintained to the present time, the total increased charge collected would be in excess of $30,000,000 on this commodity alone.

ADVANCES ON IRON AND STEEL.

In this same memoranda the Interstate Commerce Commission state: "At the beginning of the year 1903, the rates on all iron and steel articles were advanced 10 per cent in the territories governed by official classifications. The annual reports of the carriers do not appear to include all iron and steel articles in the tables which give the separate tonnage for particular commodities." The total tonnage assigned to commodities to which this advance is applicable, however, amounts approximately to 20,000,000 tons annually. An advance of 10 per cent would equal from one-half to one and one-half cents per 100 pounds, and average probably about 1 cent per 100 pounds, or 20 cents per ton. On the basis of this tonnage the net annual increase in the freight charge because of this advance will be approximately $4,000,000.

Express companies.—The foundation of the abuse in the freight line, private car, and express company lies in the discrimination by the railroad company in favor of these institutions as against the public. This fact is well illustrated by the testimony of a Chicago shipper before the Senate committee with reference to the express companies engaged in the transportation of perishable fruit.

In the first place, the express company is not a common carrier; is not subject to the act to regulate commerce, and consequently there is no deterrent confronting it in its wrongdoing. This Chicago shipper is a representative of seventy associations of fruit growers and acts in the capacity of general consignee for these associations at Chicago. The point which he makes in this connection is that the managers of railways discriminate in favor of express companies because they have private interest therein.

The significance of this illustration, briefly stated, is this: Until recently the bulk of the Louisiana strawberry crop was brought north by express, and a very considerable portion is still so shipped. At the shipping points an official is employed by the railway company and the express company—by the railway on a salary and by the express company on a commission. The very system by which the local agents of the railroads are also constituted as agents of the express companies, but on a commission basis, is caluculated to induce them to maintain and promote the proportion of express business at the expense of freight or railroad business.

In the given illustration the cost per carload on strawberries by freight, including refrigeration, is $152 per car; time, fifty-two hours. In consequence of this slow schedule, or because of fruit being overripe or water-soaked, or because of the failure of the railroad companies to provide cars, or for other causes, it is frequently necessary that such fruits go forward by express. The cost by express—time, thirty-six hours—is $400 per car. Of this amount the railroad, which

furnishes 97½ per cent of the service, receives $180. The express company, which furnishes the 2½ per cent of the service, receives $220. The shippers say that they are willing to pay 25 per cent more than the present freight—say, $190—and they should be given a thirty-six hour service, such as the railroad gives the express company for $180, and that they should not be obliged to pay the express company more than twice as much for no additional service.

This discrimination favoring the express company gives them a very great advantage as compared with the ordinary shipper. These express companies are engaged in the commission business. They find customers for much of the traffic which they handle.

As another illustration of this discrimination, Mr. Davies submits the following instance: "A friend of mine, a solicitor in the freight business, went to a house in Chicago that had four carloads ready to ship to New York. The rate was $2.25 a hundred. The railroads were religious. They would not shade the rates, and it was a good line, and expected to get the business on the merits of the service. Two days afterwards he went up there, and the express company had hauled down the cars, and they were shipped to New York and delivered to the store at the other end, including the cartage, which they own, for $1.50, and the railroad companies, I presume, got 45 per cent of the $1.50 and were satisfied."

Private car lines.—From all parts of the country where perishable fruit is grown or shipped came complaints of the oppression of the private car and refrigerator car companies. Prior to the advent of the private car line in the Michigan fruit business a charge of 79 cents per 100 pounds covered the total cost of all service, including refrigeration, for the shipment of fruit to Boston. With the advent of the private cars, $20 per carload was added as an icing charge. When Armour secured an exclusive contract on the Pere-Marquette line, this additional charge was increase to $55 per carload, except at competitive points. Not only was this charge exorbitant, but it involves resulting discrimination as between the grower, who has a choice between the Armour car and the railroad car and the shipper who must use the Armour car. This discrimination maintains at present. In May, 1905, the Michigan Central withdrew from the Armour contract with the result that discrimination is restored as between competitive and noncompetitive points in the Michigan fruit belt. Mr. Mead, representing the National League of Commission Merchants, testified with reference to this condition: "One man who can ship fruit over the Michigan Central will get a rate of $25 (for icing) to Boston. The man who uses the Pere-Marquette road (where the Armour exclusive contract prevails) will have to pay $45."

Testimony was submitted in which it was declared that the rates for transportation of peaches from Georgia to northern markets is most exorbitant. The rates were cited, and from these rates on carload shipments of 20,000 pounds of peaches the charge per ton per mile is practically three and one-fourth times the average ton-mile rate on freight in the United States. The charge of $67.50 per car for refrigeration from North Georgia to New York was designated as "enormous."

Complaint from the citrus fruit growers of California set forth that in addition to the enormous rate for refrigeration many of the cars furnished are so small that they will not carry the required minimum carload rate without great damage to the fruit. This results in a necessary underloading of the cars and a consequent much higher rate of charge than is given in the tariffs.

Growers of California deciduous fruits complain still more of the excessive charges for refrigeration. Said their representative before the Senate committee: "This icing charge is exhorbitant, averaging about $106 per car, and believed by many to be all profit for the reason that the (Armour) Company can, as it does in some instances, put up its own ice or own a controlling interest in companies that may be permitted to furnish it with ice, consequently the profits acruing to such company ultimately find their way into the treasury of the Armour Company.

It developed in the testimony before the Senate committee that the rates for refrigeration from the Sacramento Valley to eastern points range from $80 to $120 per car and averaged about $106 per car. At the same time the Northern Pacific Railroad was shipping fruit from Washington and North Pacific Coast points under a charge for icing of $25 per carload.

Mr. Joseph H. Call appeared before the Senate committee on behalf the Southern California Fruit Exchange and the citrus fruit interests of California. Mr. Call stated that evidence in the rate cases in which he participated before the Interstate Commerce Commission established that the average costs to growers per 80-pound box of putting oranges aboard car is $1.10. The freight to eastern markets under a blanket rate amounts to 90 cents per crate, with the charge for refrigeration at $70 to $80 a car. The total cost of laying the fruit down in the eastern markets is $2 to $2.10 per box, and the average selling price for the past three seasons was as follows: 1902 to 1903, $2.20; 1903–4, $1.977; 1904–5, $2.13. So high are the freight charges and refrieration charges on this traffic that the margin of profit to the growers is very narrow and the business is indeed precarious. The total freight paid annually on this traffic to railroads is about $12,000,000, and is about ten times the total estimated profits to the growers on the product so shipped.

Not only are the rates for transportation and refrigeration under the private-car system uniformly exorbitant and unreasonable, but they are charged for a service that is often inadequate and unsatisfactory. Referring to the service in the shipment of the Georgia peaches, it was declared, "As to the refrigerator car service, in spite of the enormous charge of $67.50 * * * the service was bad, peaches spoiled en route and cars could not be had at many places for loading."

Mr. Mead submitted testimony that the service was inadequate, resulting in enormous loss to fruit and berry growers; that the refrigeration was imperfect, necessitating underloading of cars and consequently an increase of about 20 per cent in the already high freight and icing charges. In case of loss or damages he declared it well-nigh impossible to fix the responsibility, and that the freight bills were not in any way itemized so that the shipper could know how much he was paying for any part of the service nor to whom he was paying it. He cited one case in which Armour & Co. sued a receiver of freight for charges on a shipment shipped in an Illinois Central car, the only apparent connection being that it was shipped at the Armour rate; and another case in which the Chicago and Eastern Illinois Railroad sued a receiver for a freight charge on an Armour service. "In one instance the railroad is suing for that work and in the other Armour is suing for the work performed by the railroad."

Mr. Mead submitted in evidence of the failure of Armour & Co. to furnish efficient service where they have exclusive contracts to furnish all the equipment to move the traffic the following letter, by a pioneer trucker of North Carolina, to the Carolina Fruit and Truckers' Journal:

WALLACE, N. C., *May 5, 1905.*

Editor Carolina Fruit and Truckers' Journal:

During my thirty-five years' experience in the strawberry business in this section I have never seen anything to compare with the disastrous results of the present season. In fact, it looks now like this, the most valuable strawberry crop North Carolina has ever produced, will be lost on account of poor transportation facilities. Our association has done all it could to keep the transportation people posted as to existing conditions, and told them it would take 2,500 refrigerator cars to move the crop; yet the supply of cars gave out before we had been shipping ten days. Thousands of crates of berries have rotted at the railroad stations for want of cars, and many of our growers are ruined unless the transportation people stand the loss, as they should do.

The situation is terrible. We have had no refrigerator cars left at this station to be loaded in five days. What we had came by in the "pick-up" train, and with instructions to load for New York only. They packed them mostly without slats, 7 crates wide and 4 high, running about 450 crates to the car, and are being delivered one to three days late. The markets are taking good berries at good prices. The "pick-up" berries are selling for nothing to 8 cents, as to condition.

Growers are demoralized and about frantic. Yesterday there was one empty car on the "pick-up," which was givin to one party who had bill of lading for 300 crates. As soon as the car stopped other growers began to carry their berries into it, and for some time it looked like we would have a general hand-to-hand battle, while our clever agent, who has been worried until he looks like he is just out of a spell of fever, was powerless. "Forbearance has ceased to be a virtue" here, and we must have more cars or a heavy police force, for our boys want to fight.

The "pick-up" train as now managed will not do. You can not haul heavy loads of guano and strawberries successfully on the same train. One came by here so heavily loaded with guano it had to be cut in two, and took one part to Teacheys and engine came back after the remainder. I don't know how long it takes to get to New York that way.

The railroad people make a big difference between guano and strawberries when they make up the tariff, but when they make up their trains they all go together. Of course railroad people claim that freight must be higher on berries, as they are perishable. This is all right if they bear this in mind in their movement. The berries that are being packed in the "pick-up" cars, 450 crates to the car, had better be dumped into the creek. Three box cars loaded with berries left here yesterday, which berries had been picked up and lying at the station since Monday. Some of the crates were leaking when they were loaded, but they got about 500 in a car and they will be in bad shape when they are unloaded.

J. S. WESTBROOK.

Only about 600 cars were delivered, and Mr. Mead estimated the resulting loss "at least half a million dollars." (Mr. Robbins of the Armour car lines complainingly testified that the Armour Company would probably have to pay $75,000 damages.)

The commission men complain also that Armour & Co. engaged in the buying and selling of fruits and produce, and that these exorbitant rates work a gross discrimination against all other dealers and commission men, enabling the Armour establishments to drive them out of business. The advantage of the car-line company engaged in the fruit business is described as follows: "If Mr. Armour ships to-day in his own cars his own products he has the advantage of the commission men to the extent of the return he receives plus his car rental and less the actual expense of ice." Between Michigan and Boston, for exampie, this would amount to probably $50 per carload on peaches.

Since September, 1904, Armour & Co. advertised and caused to be generally circulated the announcement of their withdrawal from the produce and commission business. Mr. Mead, of Boston, testified, however, that Armour & Co. continued in this business, operating under the name of a dummy corporation. As an instance in his own personal knowledge he named the J. T. Kimball Company, of Boston, a concern organized and operated by Armour clerks. Similar complaints of the undue advantage to the car line engaged in the produce and commission business come from all sections of the country.

It was stated before this committee that rebates are paid and admitted by the Santa Fe Refrigerator Line. The testimony of Mr. Leeds before the Interstate Commerce Commission was cited on this point. He declared that his company had built a new refrigerator line and entered the fruit transportation business in California. He stated that he was then, June, 1904, paying rebates, sending money by checks to the shippers of fruit. He said he had to do it to get the business, because Armour & Co. had established the practice in their business in the same territory.

Mr. C. N. Brown, an orange grower, testified: "They paid us those rebates, and every one of them would stand in line to get to talk to us—for that $35 a car—with the cash in hand, too. We did not have to wait for it."

Mr. Stevens, testifying in this connection, said: "If they (the Santa Fe Railway Company) entered into competition with the Southern Pacific, as testified by Mr. Leeds, they gave a rebate of $25 for the short haul to Chicago and $35 for the long haul. But, as would be inferred and was implied by the gentleman this morning—and I had a talk with him afterwards—it would seem that that was given in the way of a reduction in refrigeration, and as a matter of fact that is not true. It was a rebate, and that rebate was handed over to one individual. If he saw proper to distribute it among the growers, all right. I justify the Santa Fe in that. I am opposed to rebates in any shape or form or manner, but if you are fighting the devil you will have to fight him with fire. The Santa Fe would not have received a carload of fruit from the Sacramento River in the way of tonnage to its system if it had made a reduction of $35 a car on refrigeration."

CALIFORNIA FRUIT TRUST.

The California Fruit Trust was described by Mr. Stevens, a fruit grower of Sacramento, Cal., who appeared before the committee as a representative of the Horticultural Convention of California, of the transportation committee of which organization he had for twelve years been chairman. Mr. Stevens declared that he represented on this subject the sentiment of 95 per cent of the fruit growers of his State. He described the organization of the "California Fruit Distributers." This association was formed in 1902, and represents a remarkable instance of the creation of monopoly power through railroad favoritism. The Southern Pacific Railroad gives an exclusive contract to the Armour

car lines. Through this contract the Armour lines control absolutely the shipment of fruit from the Sacramento Valley, except where the Santa Fe enters. On a basis of mutual advantage and community of interest the car line and the "distributers" are on such terms as enable the "distributers" to dominate the markets and all other important factors in the fruit industry.

The California Fruit Distributers is an organization which has all the attributes of a trust. It enjoys a powerful monopoly element, through its relationship with the Armour car line, and this is perpetuated through the exclusive contract granted the car line by the railroad company. As a condition of membership, limitations of the business are agreed to amounting, it would seem, to a combination in restraint of trade. The operation of this restriction is such as to place the control of this fruit business in the hands of three companies—the Earl Fruit Company, Porter Bros. Company, and the Producers' Fruit Company. These companies are all on most friendly terms with the Armour Car Company. This relation which they hold with the car lines enables them to control absolutely the markets and the distribution of California deciduous fruits. How they use this power to further their own interests and to the great detriment of the interests of the growers and public generally is set forth in detail by Mr. Stevens.

These big distributers are engaged in two forms of the fruit business. They ship fruit for the growers on a commission. They buy fruit from the growers, deducting a commission, and sell the fruit in the eastern markets for their own profit. In either case the grower has no voice in saying to whom and where the distribution of this product is proclaimed by the distributers themselves. They say they can prevent gluts. If this is true they can also create gluts, should it be to their interest to do so. Considering the two branches of their business, it is clear that on those consignments which they ship as their own property there are two forces which make for high profits for the distributers. In the first place, they must get a high price in the market in which they sell. In the second place, they must be able to buy the fruit f. o. b. California at a low price. These two objects are attained under this arrangement to a remarkable degree.

To secure good markets and good prices for their own shipments, the distributers have reserved a large proportion of the best markets in the country. They ship the bulk of the commission consignment—shipped for the grower—to the markets of Boston, New York, and Chicago. These are auction markets at which the competition is most severe, and the profits realized on these consignments by the growers are ordinarily small. But it is in the power of the distributers by consigning an unusual quantity to any given point to ruin the market entirely, resulting in loss to growers. This practice so discourages the growers that they are ready to sell f. o. b. California to the distributers at any price which the distributers shall designate.

Meanwhile the markets reserved by the distributers for their own product are paying them good prices for the fruit which they, because of the market conditions which they have created, are able to buy of the growers at their own prices.

In evidence of the correctness of these statements the attention of the committee was called to several statements setting forth in detail the facts as to distribution and prices in various markets of California of deciduous fruits in recent years. Several particular instances were cited by Mr. Stevens in which the growers ship consignments of this fruit at a considerable net loss. With reference to the distribution of consignment business, the following statement is offered: "Of these 3,664 cars shown here, there were 2,862 sold in New York, Chicago, and Boston, and only 802 sold in 120 other markets, as reported. I have here another table showing a comparison of the prices of 1903 and 1904, showing that the losses on the week ending August 5, 356 cars, averages $429, or an aggregate of $152,724. That is the cars sold in all the markets. That is not one market, or anything of that kind."

In other words, of the total of 3,664 cars sold by the distributers for growers on commision, 2,862 cars, or about 80 per cent of the total, were put into these three biggest auction markets of the country, where the most active competition prevails. Only 802 cars of the growers' shipments were allowed to go to the 120 other markets where fruit is bought in carloads. With this exception these markets were reserved exclusively to the distributers for the sale of the fruits which they had bought f. o. b. California, amounting to something over 3,000 cars. The distributers use these large consignments in auction markets to create gluts and demoralize prices, so that they can make the lowest possible price f. o. b. in California on their f. o. b. business. The greatest prosperity to the distributers is promoted by the destruction of profits to growers on consignment business, by forcing the largest possible amount of the product to be sold to them in California, and by so demoralizing the market that they can get this product at the lowest possible price. Then, by virtue of their absolute control of the distribution of the traffic, they sell the product in the markets which they have built up by this manipulation and restriction of supplies. And it should ever be remembered that the power of the fruit trust to do these things is founded in the relationship which it has with the car line, which in turn derives its monopoly power through the exclusive contract by which it enjoys discriminations in its favor at the hands of the railroads. The existence of this fruit trust, as the existence of every other trust, is traceable directly to the discriminations and favoritism of the railways.

APPENDIX B.

Betterments paid for out of profits and surplus.

[From Mundy's "Earning Power of Railroads," 1906.]

Name of road.	Years.	Amount.
Baltimore and Ohio Railroad	1899–1905	$19,007,460
Buffalo, Rochester and Pittsburg Railway	1899–1905	3,422,327
Central of New Jersey	1903–1905	4,362,848
Delaware, Lackawanna and Western	1901–1904	13,347,160
Erie Railroad	1902–1905	5,278,731
Lehigh Valley Railroad	1902–1905	4,144,023
New York Central and Hudson River Railroad	1899–1904	9,207,099
New York, Ontario and Western Railroad	1902–1905	2,500,000
Northern Central Railway	1900–1904	3,641,755
Pennsylvania Railroad	1899–1904	50,504,133
Pennsylvania Company (owned by Pennsylvania Railroad)	1900–1904	9,000,000
Philadelphia, Baltimore and Washington (consolidation of Baltimore and Potomac and Philadelphia, Baltimore and Washington railroads)	1903–1904	3,180,513
Reading Company	1905	2,710,618
Chicago and Eastern Illinois Railroad	1900–1904	2,374,390
Chicago and Northwestern Railway	1900–1905	26,422,041
Chicago, Milwaukee and St. Paul Railway	1900–1905	9,999,096
Chicago, St. Paul, Minneapolis and Omaha Railroad	1899–1905	$31,000,000
Cleveland, Cincinnati, Chicago and St. Louis Railway	1901–1904	2,479,486
Illinois Central Railroad	1900–1905	16,630,040
Pittsburg, Cincinnati, Chicago and St. Louis Railway	1900–1904	3,956,427
Wabash Railroad	1900–1905	4,087,398
Wisconsin Central Railway	1900–1905	2,218,756
Chesapeake and Ohio Railroad	1900–1905	6,599,842
Norfolk and Western Railroad	1900–1905	12,250,000
Atchison, Tepeka and Santa Fe Railroad	1898–1904	30,000,000
Missouri, Kansas and Texas Railroad	1903–1905	3,752,932
Missouri Pacific Railroad	1901–1903	6,474,200
Texas and Pacific Railroad	1900–1904	4,902,634
Great Northern Railway	1898–1905	15,850,000
Northern Pacific Railway	1898–1905	19,999,603
Union Pacific Railway	1900–1905	13,479,165

Betterments paid for out of profits and surplus—Continued.

DELEGATE FROM ALASKA.

Mr. NELSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 956) providing for the election of a Delegate to the House of Representatives from the district of Alaska, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with the following amendment, in lieu of and as a substitute for the amendment of the House, to wit:

"An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska.

"*Be it enacted, etc.*, That the people of the Territory of Alaska shall be represented by a Delegate in the House of Representatives of the United States, chosen by the people thereof in the manner and at the time hereinafter prescribed, and who shall be known as the Delegate from Alaska. Such Delegate shall at the time of his election have been for seven years a citizen of the United States, and shall be an inhabitant and qualified voter of the district of Alaska, and shall be not less than twenty-five years of age, and when duly chosen and qualified shall possess the same powers and privileges and be entitled to the same rate of compensation as the Delegates in the House of Representatives from the Territories of the United States: *Provided, however*, That such Delegate, in lieu of all other allowances, shall, in addition to his salary, receive the sum of one thousand five hundred dollars per annum, which shall cover all mileage and other expenses except stationery allowance and compensation for clerk hire.

"SEC. 2. That the first election for Delegate from Alaska shall be held upon the second Tuesday of August, in the year nineteen hundred and six, and that all subsequent elections for such Delegate shall be held on the second Tuesday in August in each year when there is a general election for Members of the House of Representatives, and that at said first election there shall be elected a Delegate who shall hold his office for the unexpired portion of the Fifty-ninth Congress, which term of office is hereinafter designated as the 'short term;' and also at said first election there shall be elected a Delegate who shall hold his office for the full term of the Sixtieth Congress, which term of office is hereinafter designated as the 'long term.'

"That the Delegate chosen at said first election for the short term shall hold his office from the date of his election certificate during the remainder of the Fifty-ninth Congress; and the Delegate chosen at said first election for the long term shall hold his office for the full term of the Sixtieth Congress; that the Delegate chosen at each subsequent election shall hold his office for the same term as the Members of the House of Representatives chosen at the general election in the same year.

"That the salary and allowances of the Delegate chosen for the short term at said first election shall begin with the date of his election certificate, and shall extend throughout and until the close of the Fifty-ninth Congress. The salary and allowances of the Delegate chosen for the long term at said first election shall begin at the commencement of the term of the Sixtieth Congress and extend throughout and until the close thereof. The salary and allowances of the Delegate chosen at

each subsequent election shall be for the full term of the Congress to which he is elected a Delegate.

"SEC. 3. That all male citizens of the United States twenty-one years of age and over who are actual and bona fide residents of Alaska, and who have been such residents continuously during the entire year immediately preceding the election, and who have been such residents continuously for thirty days next preceding the election in the precinct in which they vote, shall be qualified to vote for the election of a Delegate from Alaska.

"SEC. 4. That each incorporated town in the district of Alaska shall constitute an election district, and where the population of such town exceeds one thousand inhabitants the common council may, in their discretion, at least thirty days before the election, divide the district into two or more voting precincts and define the boundaries of each precinct; and the said common council shall also appoint, at least thirty days before the election, three judges of election and two clerks for each voting precinct, all of whom shall be qualified voters of the precinct; and no more than two judges and one clerk shall belong to the same political party. The common council shall also, at least thirty days before the date of the election, provide a suitable polling place for each voting precinct and give due notice of the election by posting a written or printed notice in three public places in each precinct, specifying the time and place of the election, and in case there are one or more newspapers of general circulation published in the town, then a copy of said notice shall also be published in one of such newspapers at least once a week for two consecutive weeks next prior to the date of the election.

"SEC. 5. That all of the territory in each recording district now existing or hereafter created situate outside of an incorporated town shall, for the purposes of this act, constitute one election district; that in each year in which a Delegate is to be elected the commissioner in each of said election districts shall, at least thirty days before the date of said first election and at least sixty days before the date of each subsequent election, issue an order and notice, signed by him and entered in his records in a book to be kept by him for that purpose, in which said order and notice he shall—

"First. Divide his election district into such number of voting precincts as may in his judgment be necessary or convenient, defining the boundaries of each precinct by natural objects and permanent monuments or landmarks, as far as practicable, and in such manner that the boundaries of each can be readily determined and become generally known from such description, specify a polling place in each of said precincts, and give to each voting precinct an appropriate name by which the same shall thereafter be designated: *Provided, however*, That no such voting precinct shall be established with less than thirty qualified voters resident therein; that the precincts established as aforesaid shall remain as permanent precincts for all subsequent elections, unless discontinued or changed by order of the commissioner of that district.

"Second. Give notice of said election, specifying in said notice, among other things, the date of such election, the boundaries of said voting precincts as established, the location of the polling place in each precinct, and the hours between which said polling places will be open.

"Said order and notice shall be given publicity by said commissioner by posting copies of the same at least twenty days before the date of said first election, and at least thirty days before the date of each subsequent election. Said copies shall be posted as follows: One at the office of the commissioner in said district, and three copies to be posted in three conspicuous public places in each of said voting precincts as established, one of which shall be the designated polling place in each precinct; and said commissioner shall also mail a certified copy of said order and notice to the governor of Alaska at his official residence.

"That at least thirty days prior to the date of the holding of such election the commissioner shall select, notify, and appoint from among the qualified electors in each voting precinct three judges of election for said precinct, no more than two of whom shall be of the same political party. Said commissioner shall notify all of said judges of election of their appointment as such, so that each and all of them shall receive said notice at least ten days before the date of the election.

"SEC. 6. That the judges of election of each voting precinct shall constitute the election board for said precinct, and shall supervise and have charge of the election therein. They shall secure and provide a place for holding the election and a suitable ballot box. They shall pass upon the qualification of the voter and, if he be found qualified, receive and deposit his ballot in the ballot box, and shall canvass and make a return of the votes cast, as hereinafter provided.

"That the members of said election board in each precinct, before entering upon the duties of their office, shall each severally take an oath, which shall be reduced to writing, before an officer qualified to administer oaths, to honestly, faithfully, and promptly perform the duties of their positions; and if no officer qualified to administer oaths be present or available, then any one of said duly appointed or selected judges of election may administer the necessary oath to said other two judges, and he shall afterwards in turn be sworn by one of them.

"That each of said judges shall have authority to administer any oath to the voter necessary or proper under this act, and said judges shall have equal authority; and in case of any question or disagreement over any matter during the course of said election the decision of the majority of said judges shall govern.

"That two of the three judges of election in each voting precinct, outside of incorporated towns, to be selected by a majority of said judges shall also perform the duties of clerks of election for that precinct; the two judges performing the duties of clerks shall be of different political parties; it shall be the duty of the clerks at each voting precinct to make a full written record of such election as held in that precinct, and each of them shall keep a correct duplicate register and enter therein the names of the voters and the fact that they have voted, or have offered to vote and were refused, and a brief statement of the reasons for said refusal.

"SEC. 7. That each of the candidates for the office of Delegate herein provided for, at any election held hereunder, shall be entitled to one watcher at each voting precinct, who shall be permitted to be present within the place of voting at such precinct, and in some place therein where he may at all times be in full view of every act done. Such watcher shall have the right to be so present at all times from the opening of the polls until the ballots are finally counted and the result certified by the election board. Each watcher shall be required to present to the election board proper credentials, signed by the candidate he represents, showing him to be the duly authorized watcher for such person.

"SEC. 8. That in case any of the judges of election selected as herein provided for any precinct shall fail to appear and qualify at the time and place designated for the election for which they shall be appointed, then, in that event, the qualified voters present may, by a majority viva voce vote, select a suitable person or persons to fill the vacancy or vacancies in said election board; and the person or persons so selected shall qualify and serve on said election board, with the same powers and in the same manner as if appointed as hereinbefore provided.

"SEC. 9. That the election boards herein provided for shall keep the several polling places open for the reception of votes from eight o'clock antemeridian until seven o'clock postmeridian on the day of election. The voting at said election shall be by printed or written ballot. The ballot at said first election shall be substantially in the following form:

"'FOR DELEGATE FROM ALASKA.

"'For the short term (here insert the name of the person voted for).

"'For the long term (here insert the name of the person voted for).'

"At all elections after said first election the ballot shall be substantially in the following form:

"'For Delegate from Alaska.

"'(Here insert the name of the person voted for.)'

"Such ballot shall be folded by the voter so as not to disclose the vote, and by him handed to any one of the judges of election, who shall immediately, in the presence of the voter and of all the members of the election board, deposit the same, folded as aforesaid, in the ballot box, where the same shall remain untouched until the polls are closed. At the time the ballot is so deposited the clerks of election shall each of them enter in his duplicate register the name of the voter and the fact that he has voted.

"SEC. 10. That any person offering to vote may be challenged by any election officer or any other person entitled to vote at the same polling place, or by any duly appointed watcher, and when so challenged, before being allowed to vote he shall make and subscribe to the following oath: 'You do solemnly swear (or affirm, as the case may be) that you are twenty-one years of age and a citizen of the United States; that you are an actual and bona fide resident of Alaska, and have been such resident during the entire year immediately preceding this election, and have been a resident in this voting precinct for thirty days next preceding this election, and that you have not voted at this election,' and further naming the place from which the

voter came immediately prior to living in the precinct in which he offers to vote, and giving the length of time of his residence in the former place. And when he has made such an affidavit he shall be allowed to vote; but if any person so challenged shall refuse or fail to take such oath and sign such affidavit, then his vote shall be rejected; and any person swearing falsely in any such affidavit shall be guilty of perjury and shall, upon conviction thereof, suffer punishment as is prescribed by law for persons guilty of perjury.

"SEC. 11. That the election board at each polling place, as soon as the polls are closed, shall immediately publicly proceed to open the ballot box and count and canvass the votes cast, and they shall thereupon, under their hands and seals, make out in duplicate a certificate of the result of said election, specifying the number of votes, in words and figures, cast for each candidate, and they shall then immediately carefully and securely seal up in one envelope one of said duplicate certificates and one of the registers of voters, all the ballots cast, and all affidavits made, and mail such envelope, with said papers inclosed, at the nearest post-office by registered mail, if possible, duly addressed to the governor of Alaska at his place of residence, with the postage prepaid thereon.

"The other duplicate certificate and register of voters, with the oaths of the judges of election, the judges of election shall at once seal up in an envelope addressed to the clerk of the district for the division in which the precinct is situate, at his place of residence, with the postage thereon prepaid. And the said clerk shall, as soon as he receives the said duplicate certificate, at once make out and duly mail to the governor of Alaska a certified copy of such certificate, and deposit the same in the nearest post-office, by registered mail, if possible.

"The clerks of the district courts for the various divisions of Alaska and the governor of Alaska shall each retain and carefully preserve all such documents received by them until the end of the term for which the Delegate chosen has been elected.

"SEC. 12. That the governor, the surveyor-general, and the collector of customs for Alaska shall constitute a canvassing board for the Territory of Alaska to canvass and compile in writing the vote specified in the certificates of election returned to the governor from all the several election precincts as aforesaid.

"The said canvassing board shall commence the performance of its duties at the office of the governor within ten days after the third Tuesday of October in each year in which an election is held under and by virtue of this act, and shall continue with such work from day to day until the same is completed; and said canvass shall be publicly made.

"In case it shall appear to said board that no election return as hereinbefore prescribed has been received by the governor from any precinct in which an election has been held, the said board may accept in place thereof the certified copy of the certificate of election for such precinct received from the clerk of the court, and may canvass and compile the same with the other election returns.

"Said board, upon the completion of said canvass, shall declare the person who has received the greatest number of votes for Delegate to be the duly elected Delegate from Alaska for the term for which he has been so elected, and shall issue and deliver to him in writing under their hands and seals a certificate of his election.

"SEC. 13. That each newspaper in Alaska authorized to publish the notice of election provided for herein, and having published the same according to law, shall be entitled to receive therefor not more than ten dollars for the entire publications of any one election; that each commissioner in the Territory of Alaska is authorized to contract for the proper posting of all election notices, as provided herein, in each voting precinct created in his said election district, and that not more than the sum of ten dollars shall be allowed at each election for the posting of said notices in any one voting precinct in Alaska; that not more than ten dollars at each election shall be allowed for the rental of a proper polling place in each voting precinct in Alaska; that each of the judges of election who shall qualify and serve as such in any precinct on said election day and each of the clerks of election in an incorporated town shall be entitled to a compensation of five dollars for all services performed.

"SEC. 14. That the compensation for said newspaper publications, the proper posting of said notices, the rental of said polling places, the fees of the judges and clerks of election in each precinct, together with the cost of securing a ballot box and the cost of necessary postage and stationery, shall be certified with proper vouchers and receipts attached by the various election officials to the judge of the district court in the said judicial division in which said voting precinct is situate, and the same shall be audited by said judge and shall be paid by the clerk of the court of said division out of the same fund and in the same manner as the incidental expenses of said district court are paid.

"SEC. 15. That any person who, by any means, shall hinder, delay, prevent, or obstruct any other person from qualifying himself to vote or from lawfully voting at any election herein provided for, or who shall knowingly personate and vote or attempt to vote in the name of any other person, or who shall vote more than once at the same election, or shall vote at a place where or at any time when he may not lawfully be entitled to vote, or shall do any unlawful act to secure an opportunity to vote, for himself or for any other person, or who, by or through any force, threat, intimidation, bribery, reward, or offer thereof, unlawfully vote himself or procures another to vote, or prevents or induces another to refrain from exercising his right of suffrage, or induces by any means any officer of an election to do any unlawful act or omit to do his duty in any manner, or who, directly or indirectly, in any manner shall fraudulently change or cause to be changed the returns or the true and lawful result of any election hereunder, or shall attempt to do the same, or who shall delay, cause to be delayed, or connive at the delay of election returns in any manner or attempt to do so, shall be guilty of a crime, and upon the conviction thereof shall be punished by a fine of not more than five hundred dollars nor less than one hundred dollars, or imprisoned not more than three years, or both, in the discretion of the court, and pay the costs of the prosecution; and every officer of an election held hereunder who neglects to perform or violates any duty imposed upon him as such officer, or knowingly does any unauthorized act with the intent to affect the election or the result thereof, or who shall permit, make, or connive at any false count or certificate of election, or who shall conceal, withhold, destroy, or willfully delay the returns of election, or connive at the same being done, or who shall aid, counsel, or procure any person to do or attempt to do any act made a crime hereinbefore, or shall attempt to do any of the acts hereinbefore mentioned, shall be guilty of a crime, and upon conviction thereof shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment of not more than five years, or both, in the discretion of the court, and shall pay all costs of the prosecution; and jurisdiction of all such matters is hereby conferred upon the district court of Alaska.

"SEC. 16. That this act shall take effect upon its passage."

Amend the title so as to read: "An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska."

KNUTE NELSON,
WILLIAM P. DILLINGHAM,
Managers on the part of the Senate.
A. L. BRICK,
JAMES T. LLOYD,
Managers on the part of the House.

The report was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. C. R. MCKENNEY, its enrolling clerk, announced that the House had agreed to the amendments of the Senate to the joint resolution (H. J. Res. 141) for the further relief of sufferers from earthquake and conflagration on the Pacific coast.

INDIAN APPROPRIATION BILL.

Mr. CLAPP. I ask unanimous consent that the unfinished business may be temporarily laid aside and that the Senate proceed to the consideration of the Indian appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15331) making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1907.

Mr. LONG. Mr. President——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Kansas?

Mr. CLAPP. Certainly.

Mr. LONG. If the Senator from Minnesota will turn to page 44 of the bill, line 23, after the word "court," he will see that the amendment should be amended by inserting the words "to be known as recording district No. 30."

Mr. CLAPP. That amendment is accepted by the committee.

Mr. LODGE. Were not those amendments of the committee all passed over?

Mr. LONG. Yes; but we are turning back to make corrections.

Mr. LODGE. They are not being taken up now for disposition?

Mr. LONG. No; the committee amendment has been agreed to. This is a correction of it.

The VICE-PRESIDENT. In the absence of objection, the amendment of the committee on page 44, proposed to be amended by the Senator from Kansas [Mr. LONG], will be considered as open to amendment. The amendment of the Senator from Kansas will be stated.

The SECRETARY. On page 44, line 23, after the word "court," it is proposed to amend the committee amendment already agreed to by inserting the words "to be known as recording district No. 30;" so as to read:

That in addition to the places now provided by law for holding courts in the central judicial district of Indian Territory, terms of the district court of the central district shall hereafter be held at the town of Wilburton, and the United States judge of said central district is hereby authorized to establish by metes and bounds a recording district for said court, to be known as recording district No. 30.

The amendment to the amendment was agreed to.

Mr. LONG. On page 48 I move to strike out line 25 and all of page 49.

Mr. CLAPP. That is also agreeable to the committee.

The VICE-PRESIDENT. In the absence of objection, the amendment of the committee will be considered as open to amendment. The amendment of the Senator from Kansas to the committee amendment will be stated.

The SECRETARY. On page 48, after line 24, it is proposed to strike out:

That the present boundaries of recording district No. 18, in the Indian Territory, is hereby amended so as to read as follows: Beginning at a point at the South Canadian River where the same intersects the range line between ranges 3 and 4 east; thence south on said range line to a section line 3 miles south of the township line between townships 4 and 5 north; thence west on said line to the meridian line between ranges 4 and 5 west; thence north on said meridian line to the South Canadian River; thence down said South Canadian River, following the meanderings thereof, to the place of beginning. The place of record for district No. 18 shall be Purcell.

That the present boundaries of recording district No. 17, in the Indian Territory, is hereby amended so as to read as follows: Beginning at a point 3 miles south of the township line between townships 4 and 5 north where said line intersects with the range line between ranges 3 and 4 east; thence south along said range line to the base line; thence west on said base line to the meridian line between ranges 4 and 5 west; thence north on said meridian line to a section line 3 miles south of the township line between townships 4 and 5 north; thence east on said section line to the place of beginning. The place of record for district No. 17 shall be Pauls Valley.

Mr. CLAPP. There is no objection to that amendment on the part of the committee.

Mr. GALLINGER. It is a disagreement to the amendment of the committee.

The VICE-PRESIDENT. The adoption of the amendment would operate as a disagreement to the amendment of the committee.

The amendment was agreed to.

Mr. LONG. On page 50, line 3, after the word "numbered," I move to amend the amendment of the committee by striking out the words "seventeen, eighteen, and."

The VICE-PRESIDENT. In the absence of objection, the committee amendment will be considered as open to amendment. The amendment of the Senator from Kansas to the amendment will be stated.

The SECRETARY. On page 50, line 3, after the word "numbered," it is proposed to amend the committee amendment by striking out the words "seventeen, eighteen, and;" so as to read:

That it is further provided that all the provisions of the act of Congress approved February 19, 1903, shall apply to districts No. 27, where applicable. That all laws or parts of laws in conflict with the provisions hereof are hereby repealed.

Mr. CLAPP. There is no objection to that amendment on the part of the committee.

The amendment to the amendment was agreed to.

The VICE-PRESIDENT. The Chair would suggest that the amendment last agreed to makes necessary an amendment changing the word "districts" to "district," in line 3.

Mr. LONG. That is right. On page 50, line 3, before the word "numbered," I move to strike out "districts" and insert "district."

The amendment to the amendment was agreed to.

Mr. OVERMAN. I desire to submit the amendment which I send to the desk.

The VICE-PRESIDENT. Is the proposed amendment to the pending bill?

Mr. OVERMAN. Yes, sir.

The VICE-PRESIDENT. Under the agreement, the committee amendments are to be first considered.

Mr. LONG. On page 48, line 11, I move to strike out the word "twenty-seven" and insert the word "twenty-nine."

The SECRETARY. On page 48, line 11, it is proposed to strike out "twenty-seven" and insert "twenty-nine;" so as to read:

That the territory next hereinafter described shall be known as recording district No. 29.

Mr. CLAPP. That is accepted.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The VICE-PRESIDENT. The Chair will inquire of the Senator from North Carolina whether his proposed amendment is in connection with the committee amendments that are now under consideration?

Mr. OVERMAN. That is what I propose.

The VICE-PRESIDENT. Then the Senator's amendment is in order. It will be read.

The SECRETARY. On page 50, after line 6, it is proposed to insert the following:

That in addition to the places now provided by law for holding courts in the western judicial district of Indian Territory, terms of the district court of the western district shall hereafter be held at the town of Weleetka, and the United States judge of said western district is hereby authorized to establish by metes and bounds a recording district for said court.

That all laws regulating the holding of courts in the Indian Territory shall be applicable to the court hereby created in the town of Weleetka.

The VICE-PRESIDENT. Is there objection to the amendment proposed by the Senator from North Carolina?

Mr. CLAPP. There is no objection on the part of the committee.

The amendment was agreed to.

Mr. GALLINGER. Before the reading of the bill is resumed, I will state that when the bill was before the Senate on a former occasion I asked that the first amendment on page 2 be passed over. I wish to say now that I have no objection to the amendment, and it may as well be acted upon now as at any other time.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 2 of the bill, the committee reported an amendment to strike out:

That no part of the moneys herein appropriated for fulfilling treaty stipulations shall be available or expended unless expended without regard to the attendance of any beneficiary at any school other than a Government school.

And in lieu thereof to insert:

Mission schools on an Indian reservation may, under rules and regulations prescribed by the Commissioner of Indian Affairs, receive for such Indian children duly enrolled therein the rations of food and clothing to which said children would be entitled under treaty stipulations if such children were living with their parents.

The amendment was agreed to.

Mr. CLAPP. While we are dealing with amendments, I observe on page 24 the committee reported an amendment to strike out lines 12, 13, 14, and 15 of the bill. I ask that they be reinstated. I am satisfied it was a mistake to strike them out.

Mr. KEAN. Do you propose to reinstate the same amount?

Mr. CLAPP. Yes.

Mr. GALLINGER. I was about to ask whether the Senator is aware of the fact that the Department thinks that $2,000 is sufficient, while the House inserted $8,000?

Mr. CLAPP. I was not aware of that.

Mr. KEAN. That is the reason why I asked whether the Senator proposed the same amount.

Mr. TELLER. What page is it?

Mr. KEAN. Page 24, lines 12, 13, 14, and 15.

Mr. GALLINGER. I have information that the Department would recommend $2,000. The Department thinks that is a sufficient sum.

Mr. CLAPP. I do not think there has been any recommendation. If there has been, it has escaped my attention. However, we can make it two thousand, and it can be changed in conference, if necessary.

Mr. GALLINGER. Exactly.

Mr. CLAPP. The clerks may enter it at $2,000.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 24, after line 11, the committee reported an amendment to strike out the following:

For the purpose of removing obstructions from the bed of the stream which drains into the Eel River in the Round Valley Reservation, Mendocino County, Cal., $8,000.

The VICE-PRESIDENT. The question is on agreeing to the amendment reported by the Committee on Indian Affairs.

The amendment was rejected.

The VICE-PRESIDENT. The amendment proposed by the Senator from Minnesota will now be stated.

The SECRETARY. In line 14 it is proposed to strike out "eight" and insert "two;" so as to read "$2,000."

The amendment was agreed to.

The reading of the bill was resumed, beginning in line 7 on page 50. The next amendment of the Committee on Indian Affairs was, on page 50, after line 16, to insert the following:

That Leander J. Fish, an allottee of 200 acres of land in section 32, township 29, range 23 east, and of 40 acres in section 14, township 29, range 24 east, in the Quapaw Reservation, under the provisions of the act of March 2, 1895 (28 Stat. L., p. 907), and the act of March 3, 1901 (31 Stat. L., p. 1058), be, and he is hereby, authorized to alienate such portion of said land as he may see fit, not exceeding 120 acres, under such rules and regulations as the Secretary of the Interior may prescribe, and any conveyance of such land made by said Fish shall be executed subject to the approval of the Secretary of the Interior.

Mr. KEAN. I should like to have some explanation of this amendment in regard to Leander J. Fish. I understand the Department thinks that only a patent should be issued in this case.

Mr. CLAPP. The Senator will pardon me a moment. Does the Senator mean the first or second amendment?

Mr. KEAN. I mean the first one, beginning in line 17.

Mr. CLAPP. The evidence before the committee was that this man Fish is a very much advanced mixed blood; I think even in Government employ.

Mr. KEAN. My information, I will say to the Senator from Minnesota, is that it is rather in the nature of special legislation, and that the Department sees no reason why it should be enacted. It recommends only the issuance of a patent in fee.

Mr. CLAPP. That is all it provides for, is it not? He is "authorized to alienate such portion of said land as he may see fit, not exceeding a hundred and twenty acres." My recollection is that there is a bridge to be built on his land, and perhaps it would not require that amount; but he and his friends thought that he could get more if he could sell 120 acres than just the particular acreage required for the bridge. It is a matter that was very clear with the committee that there can be no objection to giving him the right.

The amendment was agreed to.

The next amendment was, on page 51, after line 6, to insert:

That the Court of Claims is hereby authorized to hear and adjudicate the claim of Joseph P. T. Fish, an Indian of nonage, born January 21, 1895, on the Quapaw Reservation, son of Leander J. Fish, a Shawnee by birth, who was duly enrolled on the Quapaw Agency rolls and an allottee of lands therein, to be enrolled and participate in the allotment of lands of the Shawnee-Cherokee Indians, and to have full jurisdiction to hear, try, and determine the claims of said minor child to enrollment, the judgment of said court to be certified to the Secretary of the Interior; and, if the court shall determine that the said minor child is entitled to enrollment with said tribe, the Secretary of the Interior shall cause his name to be so enrolled and lands allotted as to other minor children in said tribe.

Mr. LODGE. I wish to ask the Senator from Minnesota why this boy should not be put on page 41 with the others?

Mr. CLAPP. Page 41?

Mr. LODGE. Yes; where the Commissioner is authorized to add the names of certain persons to the roll of citizens by blood.

Mr. CLAPP. If the Senator please, that would hardly cure this case. I know of no holding that would relieve this case. This boy was born of a certain parentage, but born within a tribe other than that of his parents. He is now thrown out by the tribe of his parents, on the ground that he was not born there, and he is thrown out of the tribe in which he was born on the ground that his parents were not members of the tribe. Whether or not he should be enrolled where he was born is a question that is involved in a great many cases here, and we do not want to take it up until the Department of Justice gets through with it. We are perfectly willing that he should test his right to enrollment in the Court of Claims, and so it was put in that form. He can only bring a suit there and test his right to enrollment in the tribe of his parents.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, under the subhead "Seminoles (treaty)," on page 52, after line 17, to insert:

That the Secretary of the Interior is hereby authorized and directed to pay, out of any money in the Treasury belonging to the Creek Nation, to C. W. Turner, of Muskogee, Ind. T., Creek warrant No. 2671, drawn on the Creek treasurer on March 12, 1898, for $1,000, and now unpaid, which said warrant was drawn under an appropriation act of the Creek council, was presented to the Creek treasurer for payment, and is yet unpaid: *Provided*, That before any payment is made to said Turner he shall prove, to the satisfaction of the Secretary of the Interior, that he is an innocent holder of said warrant and was a purchaser of the same in good faith.

The amendment was agreed to.

The next amendment was, on page 53, after line 5, to insert:

That no person who has been or may hereafter be an employee of the Government under the Commission to the Five Civilized Tribes, or its successor, shall be permitted to practice in any manner as an agent or attorney before the Commissioner to the Five Civilized Tribes within two years after said person shall cease to be an employee of the Government.

Mr. CLARK of Wyoming. It occurs to me that there should be a change in line 6, so as to read: "That no person who is or may hereafter be."

There may be cases where men have within the last year or two left the employment of the Government and are now engaged in practice, and this would operate as an injustice to them.

Mr. CLAPP. There is no objection to the amendment.

The SECRETARY. After the word "who," in line 6, it is proposed to strike out "has been" and to insert "now is;" so as to read:

That no person who now is or may hereafter be.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed. The next amendment was, on page 53, after line 12, to insert:

That the Secretary of the Interior is authorized, under such rules and regulations as he may prescribe, to continue the publication of the Cherokee Advocate, at Tahlequah, Ind. T., until June 30, 1907, and to pay the expense of the same out of the tribal funds of the Cherokee Nation.

The amendment was agreed to.

The next amendment was, on page 53, after line 18, to insert:

That the Court of Claims is hereby authorized and directed to hear and adjudicate the claims against the Choctaw Nation of the heirs of Peter P. Pitchlynn, deceased, and of the heirs of Samuel Garland, deceased, and the claim of Chester Howe, his associates and assigns, against the Mississippi Choctaws, and to render judgment thereon in such amounts as may appear to be equitably due. Said judgments, if any, in favor of the heirs of Pitchlynn, and the heirs of Garland, aforesaid, shall be paid out of any funds in the Treasury of the United States belonging to the Choctaw Nation, and said judgment, if any, in favor of Chester Howe, his associates or assigns aforesaid, shall be paid out of any funds due or to become due the defendants in said suit, said judgment to be rendered on the principal of quantum meruit for services rendered and expenses incurred under contracts with the defendants. Notice of said suit shall be served on the governor of the Choctaw Nation, and the Attorney-General of the United States shall appear and defend in said suit on behalf of said nation and said Mississippi Choctaws.

Mr. LODGE. I understand that the Senator from Iowa [Mr. ALLISON] would like to have the amendment passed over until he is present.

Mr. CLAPP. Very well.

The VICE-PRESIDENT. The amendment will be passed over.

Mr. TELLER. I ask the Senate to go back to page 26, and I wish to offer an amendment that should have been offered some time ago. After the words "one thousand dollars," in line 7, I desire to offer the amendment I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Colorado will be stated.

The SECRETARY. On page 26, line 7, after the word "dollars," it is proposed to insert:

To Jarib L. Sanderson, of Boulder, Colo., the sum of $7,740, being the amount allowed him as surviving partner of the firm of Barlow, Sanderson & Co., on December 7, 1886, under treaty stipulations with the Cheyenne tribe of Indians, and not heretofore paid.

Mr. TELLER. I want to say, if anybody has any curiosity, that this is a judgment of the Court of Claims.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was, on page 54, after line 13, to insert:

That to enable the Red River Bridge Company, of Denison, Tex., to acquire land necessary to the proper conduct and operation of its property, Wyatt S. Hawkins, an intermarried citizen of the Chickasaw Nation, is hereby authorized to sell and convey the whole or any part of the homestead allotted to him as such intermarried citizen, and all restriction on the alienation of such homestead imposed by any existing law is hereby removed.

Mr. GALLINGER. I have occasion to know that the Indian Office, and very likely the Department itself, have some objection to giving this person the right to convey all of his homestead, and the suggestion has been made that if the right were given to dispose of whatever part of it was required for the operation of the bridge, it would be better legislation. I therefore submit the amendment I send to the desk.

The VICE-PRESIDENT. The Senator from New Hampshire proposes an amendment to the amendment, which will be stated.

The SECRETARY. After the word "convey," in line 18, it is proposed to strike out the remainder of the paragraph and insert:

Such part of the homestead allotted to him as such intermarried citizen as may be absolutely necessary for the proper operation of the bridge, and all restriction on the alienation of such portion of said homestead imposed by any existing law is hereby removed.

Mr. CLAPP. I should like to offer a suggestion. It is not known how much of the land may be required. The amendment to the amendment would simply allow him to sell so much

as might be absolutely necessary, when with the bridge going there he could realize very much more per acre for his land if he were allowed to sell it all. It seems to me it is an unnecessary restriction upon him. It simply goes to the possible price he may get for his land. I do not care anything about it personally.

Mr. TELLER. This is a homestead of only 40 acres. There was some evidence that there would not be enough left of this land to be of any value after the bridge was erected. Therefore it was thought best to let him dispose of the whole of it, and allow the bridge company to buy it if it wanted to.

Mr. GALLINGER. I confess I had an impression that the homestead was larger than 40 acres.

Mr. TELLER. No; it is only 40 acres.

Mr. CLAPP. It is a little homestead.

Mr. GALLINGER. It is a matter in which I have no interest, of course. The rule ordinarily is that if a man sells a portion of his estate to a bridge company, he gets better pay for it—a larger relative value—than if he sells the entire tract.

So I think the point the Senator from Minnesota made would not hold in this or any other similar case. However, if the Senator in charge of the bill has considered it—and the Senator from Colorado knows more about it than I do—I thought it was a much larger homestead than 40 acres, I confess——

Mr. TELLER. No.

Mr. GALLINGER. If those Senators think the amendment is proper as it is in the bill, I have no objection to it.

Mr. TELLER. The first proposition was to allow him to sell 20 acres. We finally considered that it was better to let him sell all of it and get the money.

Mr. GALLINGER. As the matter will go to conference, I withdraw the proposed amendment to the amendment.

The VICE-PRESIDENT. The amendment to the amendment is withdrawn. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 54, after line 21, to insert:

That all restrictions as to the sale, incumbrance, or taxation of the lands heretofore allotted to William P. Ross, of Tahlequah, Maud W. Ross, Edward G. Ross, Mrs. Josephine Rider, William P. Ross, of Bartlesville, Nevermore Trainer, Annie C. Bennett, Nathan F. Adams, Annie Potts, Sam Spade, French Youngpig, and Mase Squirrel, all citizens of the Cherokee Nation, Indian Territory, and duly enrolled as such, be, and the same are hereby, removed.

Mr. LODGE. I should like to ask the Senator in charge of the bill whether I am correctly informed that, under the act of April 21, 1904, it is now within the Secretary's power to remove the restriction, so that the land may be sold for twon-site purposes?

Mr. CLAPP. There are four or five of these cases, and the report is quite full with respect to them. As to the first one it says:

William P. Ross, Tahlequah, about 30 years old, one-fourth Cherokee, well educated, unmarried. Is in last stages of consumption and wants to realize on property so as to go West and try to regain his health.

Mr. LODGE. He also applied for the removal of the restriction, and his application has been approved. So he does not need——

Mr. CLAPP. I do not know whether it has been approved or not.

Mr. LODGE. The information I get from the Bureau is that it has been approved.

Mr. CLAPP. The report continues:

Maud W. Ross, about 30 years old, one-fourth Cherokee, married. Is graduate of the Cherokee Female Seminary, which institution she attended for ten years.

Edward G. Ross, 48 years old, one-fourth Cherokee. Attended the Cherokee schools and college for over ten years and was a student at Lawrenceville, N. J., for three years and afterwards for one year at the business college in St. Louis. He has tuberculosis and wants to realize on his property and go West to the mountains.

Mrs. Josephine Rider, age 57, one-fourth Cherokee. Has good common school education. Is now incurably insane, and in Hiawatha Insane Asylum at Canton, S. Dak. The money is needed for her comfort and support. Her son is in the United States Army, at Angel Island, Cal.

W. P. Ross, of Bartlesville, is 44 years old, one-fourth Cherokee. Attended the public schools and Cherokee Male Seminary for fifteen years, the Lawrenceville High School, at Lawrenceville, N. J., for three years. Is printer and editor by profession, and a business man of wide experience. Wants to handle his own property for the benefit of himself and family.

Nevermore Trainer, one-eighth Cherokee, 23 years of age. Graduate of the Cherokee Seminary, and at present a school-teacher.

Mr. LODGE. He has applied and has had the restriction removed.

Mr. CLAPP. All I know about it is this, Senator: These people wrote up here—the Senator from Wyoming [Mr. CLARK] had this matter in charge—and they asked to have these restrictions removed; and certainly I can see no objection to the removal of restrictions in respect of that class of people.

Mr. LODGE. Why is it necessary to do it in the bill? The act of April 21, 1904, has been on the statute books two years. Of the persons mentioned in the amendment only Ross, Trainer, Annie C. Bennett, and Nathan F. Adams have applied for the removal of the restriction on their allotments, and their applications have been approved.

Mr. CLAPP. If the Senator knew the trouble incident to getting the restrictions removed by application, he would understand why people are anxious to get them removed by legislation. If these people are ever to take their property, it is only an act of common justice, it seems to me, to give it to them.

Mr. CLARK of Wyoming. The Senator from Massachusetts is certainly misinformed as to some of the persons whom he has mentioned as having had the restrictions removed.

Mr. LODGE. I inquired of the Bureau, and I got the direct information that four of these people had applied, and that their applications had been approved; that none of the others had applied.

I also get the information that two of them are full-blood Indians, and that removing the restriction is a direct contradiction of the law we passed the other day, and sets a precedent in the Indian Territory which the Department say they consider very unfortunate.

Mr. CLARK of Wyoming. It has been done time and time again.

Mr. LODGE. French Youngpig and Mase Squirrel are full-blood Indians, and to remove their restrictions by legislative enactment seems to be in direct conflict with the policy Congress is pursuing, as the conferees' report of April 9, 1906 (Senate Document No. 307), on H. R. 5976, shows that section 19 of that bill has been amended by the conferees so as not to permit any full-blood Indian of the Five Civilized Tribes "to alienate, sell, dispose of, or encumber in any manner any of the lands allotted to him for a period of twenty-five years from the approval of the act." The Department further say it would establish an unfortunate precedent in the Indian Territory.

Mr. CLARK of Wyoming. I am sure the Senator is misinformed as to some of those whose applications he says have been approved.

Mr. LODGE. Very likely. I have no personal knowledge of it. Being very ignorant, I asked for some information.

Mr. CLARK of Wyoming. The peculiar circumstances connected with each one of these cases, as the report will show, will convince the Senator why there should be a legislative enactment.

Mr. LODGE. Does not the Senator think these two full-blood Indians ought to come out anyway, as it seems to be in direct conflict with the law passed the other day?

Mr. CLARK of Wyoming. Not if the particular circumstances are such that they should be made exceptions to the general law.

Mr. LODGE. Can that not be dealt with under the law of 1904?

Mr. CLARK of Wyoming. I do not think it can be. I will turn to it in just a moment. Here are the circumstances under which that is desired, I will say to the Senator:

Annie Potts, Sam Spade, French Youngpig, and Mase Squirrel, mixed blood adult Cherokees, who desire to dispose of their allotments to the Prairie Oil Company for an oil-tank farm. It is necessary that this should be disposed of in a body, as lands for tank-farm purposes must be contiguous.

It seems that the necessity is on the part of the industry.

Mr. LODGE. There is a conflict between that report and the one I am reading from. The report I get is that Youngpig and Squirrel are full bloods, and it appears the necessity is in order to sell their allotments to an oil company.

Mr. CLARK of Wyoming. That seems to be the necessity. If the Senator is acquainted with that necessity, he will appreciate that it is quite a material one to the growth of the country.

Mr. LODGE. Of course I have no desire in the matter whatever, except to protect the Indians' rights.

Mr. CLARK of Wyoming. I will say to the Senator that I know nothing whatever about those particular cases, but with respect to the others, as to whom he says his information is that their applications for removal have been approved, I am satisfied his information is erroneous.

Mr. LODGE. It says:

Of the persons mentioned in the amendment only William P. Ross, of Tahlequah, Nevermore Trainer, Annie C. Bennett, and Nathan F. Adams have applied for the removal of the restrictions on their allotments.

Under the law of 1904.

Mr. CLARK of Wyoming. Yes.

Mr. LODGE (reading). "Their applications have been approved."

Mr. CLARK of Wyoming. They had not been approved at the time this bill was framed. I can assure the Senator of that.

Mr. LODGE. Then the Commissioner goes on to say:

It is hardly probable that this request for the removal of restrictions originated with the persons whose names are mentioned in the amendment.

Mr. CLARK of Wyoming. I can not understand where that information comes from. If the Senator will read this amendment and the report——

Mr. LODGE. I have read the report. This information comes from the Indian Bureau. I have no other source of information.

Mr. CLARK of Wyoming. Why a man who has been the editor of a paper for ten years should not desire the restriction removed, and should wait until some other person interfered for him, is more than I can comprehend. The Senator will notice in looking over this list the reasons for it.

Mr. LODGE. I see the reasons. Did these people themselves ask for it?

Mr. CLARK of Wyoming. Some of them did to my knowledge.

Mr. LODGE. William P. Ross, of Tahlequah, of course, has made the request under the law, and it has been granted.

Mr. CLARK of Wyoming. That is where the Senator and I are unfortunately at odds. The request must surely have been granted after this legislation was proposed in the bill. So in regard to the other three he mentioned.

Mr. LODGE. There are apparently two William P. Rosses.

Mr. CLARK of Wyoming. I will say in regard to Nathan F. Adams that he is about 28 years of age. His request was made to the Department a long while ago, and up to the time at least when his request was presented to the committee, it had not been approved. As to the others, I can not say when they were——

Mr. LODGE. William P. Ross, of Tahlequah, is the one who has had his application approved. The other one has not applied. With respect to the one of whom the Senator spoke as editor, I will say that it seems very reasonable that such a man should have the restriction removed.

Mr. CLAPP. I ask the Senator in all fairness——

Mr. LODGE. It seems to me that full-blood Indians would be far safer protected by the Department, in a matter of that sort, in selling to an oil company than they would be if compelled to protect themselves.

Mr. CLARK of Wyoming. I will say to the Senator that, so far as I know, this is more for the benefit of the oil company, which has been referred to, than for the benefit of the individual Indians themselves. The Senator will observe that it is necessary, if the oil business is to be carried on, that there must be tankage provided, and if tankage is provided there must be land on which to locate it, and it is to be located, of course, at the most favorable point for the oil company. The Indians which the Senator designates as "full bloods" the report designates as "mixed bloods." That is the situation. I think it is quite proper, in an exceptional case like that, that even full bloods shall be allowed to alienate their land.

Mr. CLAPP. But these are designated as "mixed bloods." I understand that they are all mixed bloods.

Mr. LODGE. So they are spoken of in the report. Is that taken from the report?

Mr. CLAPP. It is taken from the document the Senator from Wyoming filed with me. I know but little about it more than the information given in that document. I do not think it could have been possible that these restrictions were removed when these people asked for it.

Mr. LODGE. Suppose we let the amendment go over. Of course I do not want to make any unreasonable objection at all.

The VICE-PRESIDENT. The amendment will be passed over.

Mr. FORAKER. I desire to ask the Senator why there could not have been incorporated in this same provision two other names—the names of Benjamin Marshall and John A. Jacobs? I understand that these are members of the Creek tribe, and only about half bloods, perhaps not of that much Indian blood. One of the gentlemen—Mr. Marshall—is a real-estate agent, an active business man, with large experience in handling real estate, and he wants to have the privilege of selling his property.

Mr. CLAPP. I will ask that the letters of the two gentlemen be read as some evidence of their ability.

Mr. FORAKER. Mr. Jacobs, I understand, is the vice-president of a national bank. It does seem unnecessary to tie up their land for the long period of twenty-one years.

Mr. LODGE. Of course, I do not object to anything of that sort as to the half bloods, but as to the full bloods it seems a direct contradiction of what we did the other day.

Mr. CLARK of Wyoming. I should like to ask the Senator from Massachusetts if it would not be sufficient for those whom he designates as "full bloods," if that amendment should be passed over, and let the others be incorporated in the bill?

Mr. LODGE. I do not see how we can do that very well. Does the Senator propose that we shall strike out those two names?

Mr. CLARK of Wyoming. No. I mean to pass over those who are designated in the communication as full-blood Indians.

Mr. LODGE. I mean that we can not pass over a part of the amendment and adopt any part of it; we must pass over the whole amendment.

The VICE-PRESIDENT. The amendment is passed over at the request of the Senator from Massachusetts.

Mr. CLAPP. I offer an amendment in this connection.

Mr. FORAKER. I ask the Senator from Massachusetts if he objects to an amendment respecting Marshall and Jacobs?

Mr. LODGE. No; I do not object to that.

Mr. FORAKER. Then I hope, if no one objects to it, that the amendment may be adopted.

The VICE-PRESIDENT. What is the desire of the Senator from Minnesota with respect to the two letters he has sent to the Secretary's desk?

Mr. CLAPP. I will not ask the Senate to hear them read at this time.

The VICE-PRESIDENT. The Senator from Minnesota proposes an amendment, which will be stated.

The SECRETARY. After line 4, on page 55, insert:

That the restrictions upon the alienation of the homestead of Benjamin Marshall, a Creek Indian, it being the southeast quarter of the southwest quarter of section 28, township 16 north, and range 17 east of the Indian base meridian, in Indian Territory, containing 40 acres, be, and the same are hereby, removed.

That the restrictions upon the alienation of the homestead of John A. Jacobs, a Creek Indian, it being the southwest quarter of the southwest quarter of section 18, township 7 north, and range 9 east of the Indian base meridian, in Indian Territory, containing 40 acres, be, and the same are hereby, removed.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Minnesota.

The amendment was agreed to.

The next amendment was, on page 55, line 6, after the word "authorized," to insert "and directed;" so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to issue a fee-simple patent, etc.

Mr. GALLINGER. This clause relates to the issuing of patents to certain named Indians, and the amendment just read directs the Secretary of the Interior to issue those patents. I will ask the Senator from Minnesota whether he is sure that these are competent Indians?

Mr. CLAPP. As to those names we have now reached, I have only a letter from the Senator from Alabama [Mr. MORGAN]. He says he knows Mr. Richardville well, and feels authorized to indorse all that Mr. Lamar says about him.

Mr. LODGE. Why not leave it to the discretion of the Secretary?

Mr. GALLINGER. I am satisfied the Department would very much prefer to have the words "and directed" omitted from the bill and let it remain as it came from the House in that respect. The Secretary does not feel that he ought to be directed to do this when there might be circumstances connected with these Indians which would make it very unwise and unfortunate for him to do it. I hope the amendment inserting the two words "and directed" may be disagreed to.

The amendment was rejected.

Mr. GALLINGER. There is now no objection to the remainder of the paragraph as proposed to be amended.

The next amendment was, on page 55, line 6, after the word "to" where it occurs the second time, to strike out "Maynard C. Armstrong, Wyandotte allottee numbered 53; William Nichols, Seneca allottee numbered 185" and insert "Eulala Smith, Wyandotte allottee numbered 15; Thomas F. Richardville, Mary Richardville, Katherine R. Simpson, Western Miami Indians;" and in line 12, after the word "allotted," to strike out "him" and insert "them;" so as to make the clause read:

That the Secretary of the Interior be, and he is hereby, authorized to issue a fee-simple patent to Eulala Smith, Wyandotte allottee numbered 15, Thomas F. Richardville, Mary Richardville, Katherine R. Simpson, Western Miami Indians, for land heretofore allotted them, and the issuance of said patent shall operate as a removal of all restrictions as to the sale, incumbrance, or taxation of the lands so patented.

The amendment was agreed to.

The next amendment was, on page 55, after line 14, to insert:

For the care and support of insane persons in Indian Territory, to be expended under the direction of the Secretary of the Interior, $50,000, or so much thereof as may be necessary: *Provided, however,* That Indian citizens in said Territory shall be cared for at the asylum in Canton, Lincoln County, S. Dak.

The amendment was agreed to.

The next amendment was, on page 56, line 10, before the word "thousand," to strike out "twenty-five" and insert "thirty-five;" so as to make the clause read:

For support and education of 750 Indian pupils at the Indian school, Haskell Institute, Lawrence, Kans., and for transportation of pupils to and from said school, $135,250.

The amendment was agreed to.

The next amendment was, on page 56, line 20, to increase the total appropriation for the maintenance of the Haskell Institute, Kans., from $146,250 to $156,250.

The amendment was agreed to.

The next amendment was, under the subhead "Sacs and Foxes of the Missouri (treaty)," on page 50, after line 23, to insert:

That the Secretary of the Interior is hereby authorized to sell and convey, under such rules and regulations as he may prescribe, the tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte tribe of Indians on the 31st day of January, 1895. And authority is hereby conferred upon the Secretary of the Interior to provide for the removal of the remains of persons interred in said burial ground and their reinterment in the Wyandotte Cemetery at Quindaro, Kans., and to purchase and put in place appropriate monuments over the remains reinterred in the Quindaro Cemetery. And after the payment of the costs of such removal, as above specified, and the costs incident to the sale of said land, and also after the payment to any of the Wyandotte people, or their legal heirs, of claims for losses sustained by reason of the purchase of the alleged rights of the Wyandotte tribe in a certain ferry named in said treaty, if, in the opinion of the Secretary of the Interior, such claims or any of them are just and equitable, without regard to the statutes of limitation, the residue of the money derived from said sale shall be paid per capita to the members of the Wyandotte tribe of Indians who were parties to said treaty, their heirs, or legal representatives.

The amendment was agreed to.

The next amendment was, on page 60, after line 22, to insert:

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to issue patents in fee simple to the members of the Sac and Fox of Missouri and Iowa tribes of Indians for the lands heretofore allotted them in Kansas and Nebraska; and the issuance of such patents shall operate to remove all restrictions as to sale, taxation, and incumbrance of the lands so patented.

The amendment was agreed to.

The next amendment was, on page 61, after line 4, to insert:

That the Secretary of the Interior shall cause all the surplus unallotted lands of the Sac and Fox of Missouri tribe to be allotted to those members born since the completion of allotments to said tribe and alive and in being on June 30, 1906, as near as may be an equal quantity of land in acres, and to issue patents therefor in fee simple, or under the provisions of the fifth section of the act of Congress approved February 8, 1887, 24 Statutes at Large, page 388, in his discretion.

Mr. LODGE. I wish to ask the Senator from Minnesota why the Iowas in Nebraska, who are included in the same report, should not be included here, and whether it was a mere oversight?

Mr. CLAPP. My recollection is that the Department advised us that they had been settled with and ought not to be included. Now, that is merely my present impression.

Mr. LODGE. I asked about this amendment, and I will read the Senator what was sent to me from the Department in regard to it:

The legislation embraced in this part of the bill is identical with the legislation recommended in my report of February 10, 1906, except that the provision appropriating the capital fund of the Iowa Indians has been omitted; hence the legislation will authorize the closing up of the affairs of the Sac and Fox of Missouri Indians so far as these relate to the Government, but will leave the Iowas in Nebraska, who were included in the office report, still to be dealt with. It is true that the amendment authorizes the issuance of patents in fee to both tribes, but is it believed that the paragraph omitted from the office report should be included. It is presumed that this has been omitted through some error, and it is therefore repeated here in order that it may be inserted should the Senate think proper.

SEC. 3. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $57,500, to be placed in the Treasury of the United States to the credit of the Iowa tribe of Indians, to draw interest at the rate of 5 per cent per annum, being the balance due said tribe per ninth article of the treaty of May 17, 1854, and the Secretary of the Interior is hereby authorized to pay said sum to the Indians entitled in cash per capita subject to the provisions of the act of April 21, 1904 (33 Stat. L., p. 201.)

Mr. CLAPP. The Department asks now to have that inserted?

Mr. LODGE. That is what I understand is the request.

Mr. CLAPP. I have no objection, but I am very certain——

Mr. LODGE. I will hand this memorandum to the Senator. He can look over it and add it at any time.

Mr. CLAPP. Certainly.

The amendment was agreed to.

The next amendment was, on page 61, after line 14, to insert:

That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $157,400, to be placed in the Treasury of the United States to the credit of the Sac and Fox of Missouri tribes of Indians, to draw interest at the rate of 5 per cent per annum, being the amount due said tribe per article 2 of the treaty of October 21, 1837, and the Secretary of the Interior is hereby authorized to pay said sum to the Indians entitled in cash per capita, subject to the provisions of the act of April 21, 1904 (33 Stat. L., p. 201): *Provided,* That the rights or equities of any person whose claim to an allotment of the Sac and Fox of Missouri Reservation tribal land and who has already instituted proceedings in the United States circuit court for the district of Nebraska to determine such right shall not be affected by any of the provisions of this act.

The amendment was agreed to.

The next amendment was, on page 62, after line 10, after the word "them," to strike out "William A. Margrave, Margaret Margrave, William C. Margrave, James T. Margrave, Earl I. Margrave, Julia Le Clere, and Willie Connell, Sac and Fox of Missouri allottees numbered 60, 61, 62, 63, 64, 58, and 27;" so as to make the clause read:

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to issue fee-simple patents to the following parties for the lands heretofore allotted them, respectively; and the issuance of said patents shall operate as a removal of all restrictions as to the sale, incumbrance, or taxation of the lands so patented.

Mr. CLAPP. I suggest that that paragraph be passed over for the present.

The VICE-PRESIDENT. The amendment will be passed over.

The reading was continued to page 64, line 15, the last line making the total of the items under the heading "Pipestone school," $45,000.

Mr. CLAPP. I think the total should be changed to $49,175.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. In line 15, page 64, strike out "$45,000" and insert "$49,175;" so as to read:

In all, $49,175.

The amendment was agreed to.

The next amendment was, under the subhead "Chippewas of Minnesota, reimbursable (treaty)," on page 65, after line 18, to insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $197.50 to Martha A. Allen, widow of Hiram W. Allen, late additional farmer at Red Lake Indian Reservation, Minn., said sum being the amount of said Hiram W. Allen's salary withheld for the third quarter, 1885.

The amendment was agreed to.

The next amendment was, on page 66, after line 2, to insert:

To enable the Secretary of the Interior to pay to the heirs of Thomas Le Blanc, deceased, Sioux scout, the sum alleged to be due said heirs, $901.23.

The amendment was agreed to.

The next amendment was, on page 66, after line 6, to insert:

That the Secretary of the Interior is hereby authorized and directed to pay to D. C. Lightbourn, of Ada, Minn., the sum of $1,244.45; and to George D. Hamilton, of Detroit, Minn., the sum of $830, out of any moneys standing to the credit of the Chippewa Indians, of Mississippi, in payment for bills incurred in advertising; and the said sums are hereby appropriated for said purpose.

Mr. LODGE. I wish to know something about this claim. It is not a very large one, it is true, but on what is it based? I have looked in the report of the committee. Perhaps the Senator can refer me to the place in the report where it is explained. I can not find it mentioned in the index.

Mr. CLAPP. All these Minnesota matters would be under the heading of "Minnesota," in the index. There may be some of the items indexed separately. This came in very late, and it may not be in the report.

I will state the circumstances. These men advertised these lands for sale, under the direction of the agent there, but there is no authority to pay them out of any fund. Sooner or later, I presume, we shall have to enact some legislation to distribute the funds of those Indians and apply those portions which have been expended for these particular purposes against these particular Indians. But these people have rendered this work; they can not get their pay, and there is no reason why they should be made to undergo delay in getting the matter straightened out.

Mr. LODGE. Has the claim ever been investigated or approved by the Indian Office? Has the Senator anything to go on except the claim of the claimants?

Mr. CLAPP. I do not know that it has been approved any more than that the Office said they could not pay it, because they had no authority to use these funds for that purpose. There is no question, as I understand it, about the amount of the two bills. They were bills for printing.

Mr. LODGE. This item is, I think, subject to a point of order. It has not been estimated for by the Department.

Mr. CLAPP. But it comes out of the Indian funds.

Mr. LODGE. That covers only the cases of claims.

Mr. CLAPP. This will be a claim.

Mr. LODGE. This is an appropriation. I understood the ruling of the Senator from Maine to apply to the case of a private claim and not the case of an estimate.

The VICE-PRESIDENT. The Chair is of opinion that the point made by the Senator from Massachusetts is well taken.

Mr. LODGE. I will state the reason why I make the point of order.

Mr. CLAPP. Before the Chair makes a decision finally, I should like to look up the authority we had to use last year.

Mr. LODGE (reading)—

The records of the Indian Office do not show any claim or correspondence on this subject, and the item does not specify any date when the claim was incurred.

The Office says it never has been referred to it "for investigation or report."

The fact that it comes out of the Indian funds seems to me only additional reason to be careful about it. It is a very small amount, I know, but those funds are in the nature of a trust fund, and this has never been reported on by any authority.

Mr. CLAPP. Since the Senator has some information there from the Department, I will state that I talked over this matter with the Commissioner of Indian Affairs. We went over it, and I suggested to him that the only thing we could do was to pay these claims and then some time pass some legislation to distribute these funds. There was no point made by him and no suggestion on his part but that that was the proper thing to do. I certainly can not understand it if he has said anything adverse to that.

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Minnesota yield to the Senator from Montana?

Mr. CLAPP. Certainly.

Mr. CARTER. This seems to be a rather strange proceeding. Do I understand the chairman of the committee to say that the Commissioner of Indian Affairs did not supply certain facts to the committee and later on sent them to other Senators to be presented on the floor?

Mr. CLAPP. No; the chairman does not say so. The chairman says that in the committee room the chairman called the attention of the Commissioner of Indian Affairs to these items of printing of Lightbourne and Hamilton, and suggested that as there was no authority for him to take it out of the fund, the law which provided for printing the notices not having made ample provision in that respect, there was no reason why these men, who had done the work under the direction of the agent, should await the action of Congress until Congress made provision for distributing the fund, and that it seemed that the best plan was to pay them and then when we got to a bill distributing the fund the matter could be corrected as between the individual Indians. Without dissenting at all, I do not recall that he said anything, and it was a silent assent to the proposition. It certainly is surprising to me, in view of that conversation, if anything has been sent here adverse to the proposition.

Mr. LODGE. I merely make the point of order that it has not been estimated for.

Mr. CLAPP. I ask that it be passed over until I can get the case. I think I have the case we had last year that will dispose of the point of order.

Mr. LODGE. It was two years ago, and I think it applies only to private claims.

The VICE-PRESIDENT. The amendment will be passed over.

The next amendment was, on page 66, after line 15, to insert:

That the sum of $2,200, or so much thereof as may be necessary, is hereby appropriated, to settle the account of Charles H. Armstrong on contract No. 115 for survey of Indian lands in the State of Minnesota.

The amendment was agreed to.

The next amendment was, on page 66, after line 20, to insert:

That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $2,091.92, and the Secretary of the Treasury is hereby authorized and directed to pay said sum to Alice Fairbanks Mee, administratrix of the late George Fairbanks, formerly a member of the firm of Fairbanks Brothers, assignees of W. R. Spears, of claims against Chippewa Indian loggers on the Red Lake Reservation during the logging season of 1884 and 1885, said sum to be immediately available: *Provided*, That Alice Fairbanks Mee shall furnish satisfactory evidence to the Secretary of the Interior that she is the rightful owner of the claim, the amount being a balance due on time checks and supplies furnished said loggers engaged in logging under contract with Frank J. Johnson: *Provided further*, That no part of the amount to be charged against any funds belonging to the Chippewa Indians.

The amendment was agreed to.

The next amendment was, on page 67, after line 2~~4~~, to strike out:

That the Secretary of the Interior is hereby authorized to pay from the proceeds of the sale of timber on ceded Chippewa lands in Minnesota, under the act of June 27, 1902, to the superintendent of logging appointed under said act $4 and to his assistant superintendents $2.50 per diem in lieu of subsistence while on duty, said allowances for subsistence to date from the date of appointment of such superintendent and assistants.

Mr. CLAPP. Mr. President, I wish to call attention to the fact that that language as it appeared in the bill as it came from the House of Representatives seemed to the committee to relate to back pay; but I have been advised by the Department that it does not, and that it ought to stand. Therefore, unless objection is made, I will ask that the Senate committee amendment which has just been stated be disagreed to.

The amendment was rejected.

Mr. KEAN. Mr. President, the next amendment of the committee, beginning on line 9 on page 68, is a long one, the consideration of which will take some time. I therefore suggest that we desist for the remainder of the evening.

Mr. CLAPP. I am ready to do so whenever the Senate is.

EXECUTIVE SESSION.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened and (at 5 o'clock and 15 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, April 24, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate April 23, 1906.

COLLECTOR OF CUSTOMS.

William F. Stone, of Maryland, to be collector of customs for the district of Baltimore, in the State of Maryland. (Reappointment.)

POSTMASTERS.

IOWA.

C. C. Baird to be postmaster at Malvern, in the county of Mills and State of Iowa, in place of John D. Paddock. Incumbent's commission expires June 10, 1906.

A. M. Phillips to be postmaster at Maquoketa, in the county of Jackson and State of Iowa, in place of Harry E. King. Incumbent's commission expires May 27, 1906.

KANSAS.

James M. Chisham to be postmaster at Atchison, in the county of Atchison and State of Kansas, in place of James M. Chisham. Incumbent's commission expires June 24, 1906.

Herman Jermark to be postmaster at Beloit, in the county of Mitchell and State of Kansas, in place of William C. Perdue. Incumbent's commission expired March 14, 1906.

Sidney H. Knapp to be postmaster at Clyde, in the county of Cloud and State of Kansas, in place of Sidney H. Knapp. Incumbent's commission expires April 25, 1906.

James E. Stevens to be postmaster at Goodland, in the county of Sherman and State of Kansas, in place of James E. Stevens. Incumbent's commission expires June 5, 1906.

MAINE.

F. Morris Fish to be postmaster at Hallowell, in the county of Kennebec and State of Maine, in place of Denny K. Jewell, removed.

MICHIGAN.

Oliver H. P. Green to be postmaster at Orion, in the county of Oakland and State of Michigan, in place of Oliver H. P. Green. Incumbent's commission expires June 30, 1906.

Winthrop A. Hayes to be postmaster at Rochester, in the county of Oakland and State of Michigan, in place of Winthrop A. Hayes. Incumbent's commission expires June 30, 1906.

William B. Kelly to be postmaster at Tawas City, in the county of Iosco and State of Michigan. Office became Presidential April 1, 1906.

MISSISSIPPI.

William F. Jobes to be postmaster at Brookhaven, in the county of Lincoln and State of Mississippi, in place of William F. Jobes. Incumbent's commission expired April 2, 1906.

MISSOURI.

Samuel B. Kiefner to be postmaster at Perryville, in the county of Perry and State of Missouri, in place of Archibald H. Cashion. Incumbent's commission expired April 10, 1906.

George W. Schweer to be postmaster at Windsor, in the county of Henry and State of Missouri, in place of George W. Schweer. Incumbent's commission expired January 22, 1906.

MONTANA.

C. C. Chaffin to be postmaster at Hamilton, in the county of Ravalli and State of Montana, in place of James E. Stevens, removed.

NEBRASKA.

Fred W. Barnhart to be postmaster at Hartington, in the county of Cedar and State of Nebraska, in place of Fred W. Barnhart. Incumbent's commission expired March 1, 1906.

Alonson F. Enos to be postmaster at Stanton, in the county of Stanton and State of Nebraska, in place of Alonson F. Enos. Incumbent's commission expired March 14, 1906.

NEW JERSEY.

Elias H. Bird to be postmaster at Plainfield, in the county of Union and State of New Jersey, in place of Elias H. Bird. Incumbent's commission expires May 28, 1906.

NEW MEXICO.

Otto F. Menger to be postmaster at Clayton, in the county of Union and Territory of New Mexico, in place of Otto F. Menger. Incumbent's commission expires May 2, 1906.

NEW YORK.

James M. Miller to be postmaster at Washingtonville, in the county of Orange and State of New York, in place of James M. Miller. Incumbent's commission expires June 24, 1906.

William N. Wallace to be postmaster at Gowanda, in the county of Cattaraugus and State of New York, in place of William N. Wallace. Incumbent's commission expires May 27, 1906.

Frank N. Webster to be postmaster at Spencerport, in the county of Monroe and State of New York, in place of Frank N. Webster. Incumbent's commission expires May 14, 1906.

OHIO.

E. L. Byers to be postmaster at Mechanicsburg, in the county of Champaign and State of Ohio, in place of Tulley McKinney. Incumbent's commission expires June 24, 1906.

E. A. Gordon to be postmaster at Upper Sandusky, in the county of Wyandot and State of Ohio, in place of William H. Frater. Incumbent's commission expires June 30, 1906.

Joseph A. Shriver to be postmaster at Manchester, in the county of Adams and State of Ohio, in place of Joseph A. Shriver. Incumbent's commission expired April 2, 1906.

L. E. Simes to be postmaster at Covington, in the county of Miami and State of Ohio, in place of Leonidas Conover. Incumbent's commission expires May 16, 1906.

OREGON.

Burtis W. Johnson to be postmaster at Corvallis, in the county of Benton and State of Oregon, in place of Burtis W. Johnson. Incumbent's commission expires June 30, 1906.

Guy Lafollette to be postmaster at Prineville, in the county of Cook and State of Oregon, in place of George Summers. Incumbent's commission expired December 20, 1904.

PENNSYLVANIA.

John P. S. Fenstermacher to be postmaster at Kutztown, in the county of Berks and State of Pennsylvania, in place of John P. S. Fenstermacher. Incumbent's commission expires June 2, 1906.

Preston E. Hannum to be postmaster at Christiana, in the county of Lancaster and State of Pennsylvania, in place of Preston E. Hannum. Incumbent's commission expired January 30, 1906.

Mary C. Patterson to be postmaster at Ashland, in the county of Schulykill and State of Pennsylvania, in place of Robert B. Clayton. Incumbent's commission expired April 3, 1906.

George W. Wright to be postmaster at Elizabeth, in the county of Allegheny and State of Pennsylvania, in place of George W. Wright. Incumbent's commission expired January 30, 1906.

TEXAS.

Robert McKinnon to be postmaster at Thurber, in the county of Erath and State of Texas, in place of Thomas A. Guthrie. Incumbent's commission expired March 14, 1906.

James M. Sloan to be postmaster at Navasota, in the county of Grimes and State of Texas, in place of James M. Sloan. Incumbent's commission expires May 19, 1906.

WEST VIRGINIA.

Henry W. Deem to be postmaster at Ripley, in the county of Jackson and State of West Virginia. Office became Presidential April 1, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 23, 1906.

UNITED STATES ATTORNEY.

Frank H. Watson, of Michigan, to be United States attorney for the eastern district of Michigan.

COLLECTOR OF CUSTOMS.

Frederick C. Harper, of Washington, to be collector of customs for the district of Puget Sound, in the State of Washington.

POSTMASTERS.

ARIZONA.

John L. Keister to be postmaster at Morenci, in the county of Graham and Territory of Arizona.

CALIFORNIA.

George B. Hayden to be postmaster at Upland, in the county of San Bernardino and State of California.

M. R. Stansbury to be postmaster at Pacific Grove, in the county of Monterey and State of California.

COLORADO.

Robert Wilkinson to be postmaster at Central City, in the county of Gilpin and State of Colorado.

IOWA.

Charles C. Bender to be postmaster at Spencer, in the county of Clay and State of Iowa.

C. B. Dean to be postmaster at Wall Lake, in the county of Sac and State of Iowa.

R. A. Hasselquist to be postmaster at Chariton, in the county of Lucas and State of Iowa.

ILLINOIS.

John H. Creager to be postmaster at West Chicago, in the county of Dupage and State of Illinois.

Francis M. Love to be postmaster at Lewistown, in the county of Fulton and State of Illinois.

William P. Richards to be postmaster at Jerseyville, in the county of Jersey and State of Illinois.

MAINE.

William O. Fuller, jr., to be postmaster at Rockland, in the county of Knox and State of Maine.

William G. Hubbard to be postmaster at Wiscasset, in the county of Lincoln and State of Maine.

MASSACHUSETTS.

Louis S. Cox to be postmaster at Lawrence, in the county of Essex and State of Massachusetts.

Louis C. Hyde to be postmaster at Springfield, in the county of Hampden and State of Massachusetts.

MICHIGAN.

Charles H. Boody to be postmaster at Hart, in the county of Oceana and State of Michigan.

Nannie Faucett to be postmaster at Laurium, in the county of Houghton and State of Michigan.

Clinton L. Kester to be postmaster at Marcellus, in the county of Cass and State of Michigan.

MINNESOTA.

Jacob Gish to be postmaster at Le Sueur, in the county of Le Sueur and State of Minnesota.

James M. King to be postmaster at White Bear Lake, in the county of Ramsey and State of Minnesota.

MISSISSIPPI.

Jasper Warren Collins to be postmaster at Ellisville, in the county of Jones and State of Mississippi.

MISSOURI.

William P. Giessing to be postmaster at Desloge, in the county of St. Francois and State of Missouri.

MONTANA.

James R. White to be postmaster at Kalispell, in the county of Flathead and State of Montana.

NEBRASKA.

C. K. Cooper to be postmaster at Humboldt, in the county of Richardson and State of Nebraska.

NEW JERSEY.

Alexander C. Yard to be postmaster at Trenton, in the county of Mercer and State of New Jersey.

NEW YORK.

Edwin P. Bouton to be postmaster at Trumansburg, in the county of Tompkins and State of New York.

George M. Mayer to be postmaster at Olean, in the county of Cattaraugus and State of New York.

NORTH DAKOTA.

Ellery C. Arnold to be postmaster at Larimore, in the county of Grand Forks and State of North Dakota.

OHIO.

Edward L. Davis to be postmaster at Garrettsville, in the county of Portage and State of Ohio.

Conrey M. Ingman to be postmaster at Marysville, in the county of Union and State of Ohio.

OKLAHOMA.

Thomas F. Addington to be postmaster at Yukon, in the county of Canadian and Territory of Oklahoma.

PENNSYLVANIA.

Christian W. Houser to be postmaster at Duryea, in the county of Luzerne and State of Pennsylvania.

TEXAS.

Thomas Breen to be postmaster at Mineola, in the county of Wood and State of Texas.

Morriss Mills to be postmaster at Somerville, in the county of Burleson and State of Texas.

Abram M. Morrison to be postmaster at Ennis, in the county of Ellis and State of Texas.

George E. Sapp to be postmaster at Pecos, in the county of Reeves and State of Texas.

Thomas D. Ward to be postmaster at Corpus Christi, in the county of Nueces and State of Texas.

WEST VIRGINIA.

Harrison A. Darnall to be postmaster at Buckhannon, in the county of Upshur and State of West Virginia.

HOUSE OF REPRESENTATIVES.

MONDAY, *April 23, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

ADJOURNMENT OVER UNTIL WEDNESDAY.

Mr. PAYNE. Mr. Speaker, I move that when the House adjourns to-day it adjourn to meet on Wednesday next.

The SPEAKER. The gentleman from New York moves that when the House adjourns to-day it adjourn to meet on Wednesday next.

The question was taken; and the motion was agreed to.

SALE OF INTERNAL-REVENUE STAMPS IN PORTO RICO.

Mr. HILL of Connecticut. Mr. Speaker, I call up a privileged bill (H. R. 15071), and ask unanimous consent that it may be considered in the House as in Committee of the Whole.

Mr. WILLIAMS. I will be compelled to object to that, Mr. Speaker.

Mr. HILL of Connecticut. Then I move that the House resolve itself into Committee of the Whole House on the state of the Union.

Mr. WILLIAMS. What is the bill?

The Clerk read as follows:

A bill (H. R. 15071) to provide means for the sale of internal-revenue stamps in the island of Porto Rico.

Mr. HILL of Connecticut. It is a unanimous report from the Committee on Ways and Means.

The SPEAKER. The gentleman from Mississippi objects.

Mr. HILL of Connecticut. I move, Mr. Speaker, that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. LITTLEFIELD in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 15071) to provide means for the sale of internal-revenue stamps in the island of Porto Rico.

Mr. HILL of Connecticut. Mr. Chairman, to save the time of the House, the bill is reported with an amendment in the nature of a substitute and to perfect the bill. I ask that the reading of the original bill be dispensed with. I move the amendment be adopted, and then the substitute be read.

The CHAIRMAN. The gentleman from Connecticut moves that the amendment recommended by the committee be adopted.

The motion was agreed to.

The CHAIRMAN. The Clerk will proceed to read the substitute.

The Clerk read as follows:

A bill (H. R. 15071) to provide means for the sale of internal-revenue stamps in the island of Porto Rico.

Be it enacted, etc., That all United States internal-revenue taxes now imposed by law on articles of Porto Rican manufacture coming into the United States for consumption or sale may hereafter be paid by affixing to such articles before shipment thereof a proper United States internal-revenue stamp denoting such payment, and for the purpose of carrying into effect the provisions of this act the Secretary of the Treasury is authorized to grant to such collector of internal revenue as may be recommended by the Commissioner of Internal Revenue, and approved by the Secretary, an allowance for the salary and expenses of a deputy collector of internal revenue, to be stationed at San Juan, P. R., and the appointment of this deputy to be approved by the Secretary.

The collector will place in the hands of such deputy all stamps necessary for the payment of the proper tax on articles produced in Porto Rico and shipped to the United States, and the said deputy, upon proper payment made for said stamps, shall issue them to manufacturers in Porto Rico. All such stamps so issued or transferred to said deputy collector shall be charged to the collector and be accounted for by him as in the case of other tax-paid stamps.

The deputy collector assigned to this duty shall perform such other work in connection with the inspection and stamping of such articles, and shall make such returns as the Commissioner of Internal Revenue may, by regulations approved by the Secretary of the Treasury, direct, and all provisions of existing law relative to the appointment, duties, and compensation of deputy collectors of internal revenue, including office rent and other necessary expenses, shall, so far as applicable, apply to the deputy collector of internal revenue assigned to duty under the provisions of this act.

SEC. 2. That before entering upon the duties of his office such deputy collector shall execute a bond, payable to the collector of internal revenue appointing him, in such amount and with such sureties as he may determine.

Mr. HILL of Connecticut. Mr. Chairman, Porto Rico is outside of the internal-revenue jurisdiction of the United States. All of the internal-revenue receipts there are now paid into the Porto Rican treasury. Articles coming from Porto Rico to the United States similar to those which are subject to internal taxation here must have United States stamps affixed here, and this is now done by deputies detailed for that work at the principal ports of entry. It is greatly to the inconvenience of the people of Porto Rico. This bill authorizes a deputy collector to be detailed to sell these stamps in Porto Rico instead of affixing them at the dock in New York and New Orleans. While the bill itself is in a form authorizing the appointment of one deputy, as a matter of fact it will simply transfer one out of three to San Juan and accommodate the people in Porto Rico by enabling them to have the work done there. If there is any further question, I will be glad to answer.

Mr. CRUMPACKER. Are all the Porto Rican products shipped from the port of San Juan, and can one deputy revenue agent accommodate the entire business?

Mr. HILL of Connecticut. I think so, substantially; they think so; and it is at their own request this is done.

Mr. CRUMPACKER. This, of course, in no wise affects the revenues?

Mr. HILL of Connecticut. Except that it will probably bring revenue to the United States.

Mr. CRUMPACKER. It is purely a matter of convenience for Porto Rico?

Mr. HILL of Connecticut. Convenience for them and economy for us, both. If no one else wishes to make any inquiry, I move that the committee rise and report the bill favorably to the House.

Mr. SULZER. Is this bill unanimously reported from the committee?

Mr. HILL of Connecticut. It is a unanimous report from the committee, and is approved by the Commissioner of Internal Revenue and the Secretary of the Treasury also. The bill was drawn in the Internal-Revenue Office.

Mr. SULZER. I have no objection to it.

Mr. HUMPHREYS of Mississippi. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will please state it.

Mr. HUMPHREYS of Mississippi. Is it in order to offer an amendment to this bill?

The CHAIRMAN. The committee has already agreed to the amendment suggested to the bill by the committee. It depends upon the nature of the amendment as to whether it will be in order.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk, as a new section to the bill.

Mr. HILL of Connecticut. Mr. Chairman, I am ready to hear the amendment read, but I do not yield for any other purpose.

The Clerk read as follows:

Insert as section 3:

"Each collector of internal revenue shall, under regulations of the Commissioner of Internal Revenue, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons, who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid, and shall make and preserve a duplicate of the tax receipt or receipts issued to any person, company, or corporation, and upon application of any person he shall furnish a certified copy thereof, as of a public record, for which a fee of $1 for each 100 words or fraction thereof in the copy or copies so requested may be charged."

Mr. HILL of Connecticut. Mr. Chairman, I make the point of order that that amendment is not germane to this bill.

Mr. PAYNE. And a further point is that the House has al-